



# मध्यप्रदेश राजपत्र

प्राधिकार से प्रकाशित

क्रमांक 1]

भोपाल, शुक्रवार, दिनांक 6 जनवरी 2012—पौष 16, शक 1933

## भाग ४

### विषय-सूची

- |     |                        |                               |                                  |
|-----|------------------------|-------------------------------|----------------------------------|
| (क) | (1) मध्यप्रदेश विधेयक, | (2) प्रवर समिति के प्रतिवेदन, | (3) संसद में पुरःस्थापित विधेयक. |
| (ख) | (1) अध्यादेश,          | (2) मध्यप्रदेश अधिनियम,       | (3) संसद के अधिनियम.             |
| (ग) | (1) प्रारूप नियम,      | (2) अन्तिम नियम.              |                                  |

## भाग ४ (क)—कुछ नहीं

## भाग ४ (ख)

### संसद् के अधिनियम

### विधि और विधायी कार्य विभाग

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 14th January 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 13th January 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

### THE LEGAL METROLOGY ACT, 2009

(Act No. 1 of 2010)

*An Act to establish and enforce standards of weights and measures, regulate trade and commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Legal Metrology Act, 2009.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

(a) "Controller" means the Controller of Legal Metrology appointed under section 14;

Short title, extent and commencement.

Definitions.

(b) "dealer", in relation to any weight or measure, means a person who, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such weight or measure, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes a commission agent, an importer, a manufacturer, who sells, supplies, distributes or otherwise delivers any weight or measure manufactured by him to any person other than a dealer;

(c) "Director" means the Director of Legal Metrology appointed under section 13;

(d) "export" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(e) "import" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(f) "label" means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon any pre-packaged commodity;

(g) "Legal Metrology" means that part of metrology which treats units of weight and measurement, methods of weight and measurement and weighing and measuring instruments, in relation to the mandatory technical and legal requirements which have the object of ensuring public guarantee from the point of view of security and accuracy of the weightings and measurements;

(h) "legal metrology officer" means Additional Director, Additional Controller, Joint Director, Joint Controller, Deputy Director, Deputy Controller, Assistant Director, Assistant Controller and Inspector appointed under sections 13 and 14;

(i) "manufacturer" in relation to any weight or measure, means a person who —

(i) manufactures weight or measure,

(ii) manufactures one or more parts, and acquires other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iii) does not manufacture any part of such weight or measure but assembles parts thereof manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iv) puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be;

(j) "notification" means a notification published in the Official Gazette;

(k) "protection" means the utilisation of reading obtained from any weight or measure, for the purpose of determining any step which is required to be taken to safeguard the well-being of any human being or animal, or to protect any commodity, vegetation or thing, whether individually or collectively;

(l) "pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity;

(m) "person" includes,—

(i) a Hindu undivided family,

(ii) every department or office,

(iii) every organisation established or constituted by Government,

(iv) every local authority within the territory of India,

(v) a company, firm and association of individuals,

(vi) trust constituted under an Act,

21 of 1860.

(vii) every co-operative society, constituted under an Act,

(viii) every other society registered under the Societies Registration Act, 1860;

(n) "premises" includes—

(i) a place where any business, industry, production or transaction is carried on by a person, whether by himself or through an agent, by whatever name called, including the person who carries on the business in such premises,

(ii) a warehouse, godown or other place where any weight or measure or other goods are stored or exhibited,

(iii) a place where any books of account or other documents pertaining to any trade or transaction are kept,

(iv) a dwelling house, if any part thereof is used for the purpose of carrying on any business, industry, production or trade,

(v) a vehicle or vessel or any other mobile device, with the help of which any transaction or business is carried on;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "repairer" means a person who repairs a weight or measure and includes a person who adjusts, cleans, lubricates or paints any weight or measure or renders any other service to such weight or measure to ensure that such weight or measure conforms to the standards established by or under this Act;

(q) "State Government", in relation to a Union territory, means the Administrator thereof;

(r) "sale", with its grammatical variations and cognate expressions, means transfer of property in any weight, measure or other goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes a transfer of any weight, measure or other goods on the hire-purchase system or any other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on, such weight, measure or other goods;

(s) "seal" means a device or process by which a stamp is made, and includes any wire or other accessory which is used for ensuring the integrity of any stamp;

(t) "stamp" means a mark, made by impressing, casting, engraving, etching, branding, affixing pre-stressed paper seal or any other process in relation to, any weight or measure with a view to—

(i) certifying that such weight or measure conforms to the standard specified by or under this Act, or

(ii) indicating that any mark which was previously made thereon certifying that such weight or measure conforms to the standards specified by or under this Act, has been obliterated;

(u) "transaction" means,—

(i) any contract, whether for sale, purchase, exchange or any other purpose, or

(ii) any assessment of royalty, toll, duty or other dues, or

(iii) the assessment of any work done, wages due or services rendered,

(v) "verification", with its grammatical variations and cognate expressions, includes, in relation to any weight or measure, the process of comparing, checking, testing or adjusting such weight or measure with a view to ensuring that such weight or measure conforms to the standards established by or under this Act and also includes re-verification and calibration;

(w) "weight or measure" means a weight or measure specified by or under this Act and includes a weighing or measuring instrument.

Provisions of this Act to override provisions of any other law.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

### STANDARD WEIGHTS AND MEASURES

Units of weights and measures to be based on metric system.

4. Every unit of weight or measure shall be in accordance with the metric system based on the international system of units.

Base unit of weights and measures.

5. (1) The base unit of—

- (i) length shall be the metre;
- (ii) mass shall be the kilogram;
- (iii) time shall be the second;
- (iv) electric current shall be the ampere;
- (v) thermodynamic temperature shall be the kelvin;
- (vi) luminous intensity shall be the candela; and
- (vii) amount of substance shall be the mole.

(2) The specifications of the base units mentioned in sub-section (1), derived units and other units shall be such as may be prescribed.

Base unit of numeration.

6. (1) The base unit of numeration shall be the unit of the international form of Indian numerals.

(2) Every numeration shall be made in accordance with the decimal system.

(3) The decimal multiples and sub-multiples of the numerals shall be of such denominations and be written in such manner as may be prescribed.

Standard units of weights and measures.

7. (1) The base units of weights and measures specified in section 5 shall be the standard units of weights and measures.

(2) The base unit of numeration specified in section 6 shall be the standard unit of numeration.

(3) For the purpose of deriving the value of base, derived and other units mentioned in section 5, the Central Government shall prepare or cause to be prepared objects or equipments in such manner as may be prescribed.

(4) The physical characteristics, configuration, constructional details, materials, equipments, performance, tolerances, period of re-verification, methods or procedures of tests shall be such as may be prescribed.

Standard weight, measure or numeral.

8. (1) Any weight or measure which conforms to the standard unit of such weight or measure and also conforms to such of the provisions of section 7 as are applicable to it shall be the standard weight or measure.



(2) Any numeral which conforms to the provisions of section 6 shall be the standard numeral.

(3) No weight, measure or numeral, other than the standard weight, measure or numeral, shall be used as a standard weight, measure or numeral.

(4) No weight or measure, shall be manufactured or imported unless it conforms to the standards of weight or measure specified under section 8:

Provided that provisions of this section shall not apply for manufacture done exclusively for export or for the purpose of any scientific investigation or research.

9. (1) The reference standards, secondary standards and working standards of weights and measures shall be such as may be prescribed.

Reference, secondary and working standard.

(2) Every reference standard, secondary standard and working standard shall be verified and stamped in such manner and after payment of such fee as may be prescribed.

(3) Every reference standard, secondary standard and working standard which is not verified and stamped in accordance with the provisions of sub-section (2) shall not be deemed to be a valid standard.

10. Any transaction, dealing or contract in respect of any goods, class of goods or undertakings shall be made by such weight, measure or number as may be prescribed.

Use of weight or measure for particular purposes.

11. (1) No person shall, in relation to any goods, things or service,—

Prohibition of quotation, etc., otherwise than in terms of standard units of weight, measure or numeration.

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice, cash memo or other document, or

(c) prepare or publish any advertisement, poster or other document, or

(d) indicate the net quantity of a pre-packaged commodity, or

(e) express in relation to any transaction or protection, any quantity or dimension,

otherwise than in accordance with the standard unit of weight, measure or numeration.

(2) The provisions of sub-section (1) shall not be applicable for export of any goods, things or service.

12. Any custom, usage, practice or method of whatever nature which permits a person to demand, receive or cause to be demanded or received, any quantity of article, thing or service in excess of or less than, the quantity specified by weight, measure or number in the contract or other agreement in relation to the said article, thing or service, shall be void.

Any custom, usage, etc., contrary to standard weight, measure or numeration to be void.

### CHAPTER III

#### APPOINTMENT AND POWERS OF DIRECTOR, CONTROLLER AND LEGAL METROLOGY OFFICERS

13. (1) The Central Government may, by notification, appoint a Director of legal metrology, Additional Director, Joint Director, Deputy Director, Assistant Director and other employees for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to inter-State trade and commerce.

Appointment of Director, legal metrology officers and other employees.

(2) The qualifications of the Director and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Director and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the Central Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise powers and discharge duties under the general superintendence, direction and control of the Director.

(5) The Director, the Controller and every legal metrology officer authorised to perform any duty by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(6) No suit, prosecution or other legal proceeding shall lie against the Director, the Controller and legal metrology officer authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(7) The Central Government may, with the consent of the State Government and subject to such conditions, limitations and restrictions as it may specify in this behalf, delegate such of the powers of the Director under this Act as it may think fit to the Controller of legal metrology in the State, and such Controller may, if he is of opinion that it is necessary or expedient in the public interest so to do, delegate such of the powers delegated to him as he may think fit to any legal metrology officer and where any such delegation of powers is made by such Controller, the person to whom such powers are delegated shall exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by way of delegation.

(8) Where any delegation of powers is made under sub-section (7), the powers so delegated shall be exercised under the general superintendence, direction and guidance of the Director.

appointment  
of Controller,  
legal  
metrology  
officers and  
their  
employees.

14. (1) The State Government may, by notification, appoint a Controller of legal metrology, Additional Controller, Joint Controller, Deputy Controller, Assistant Controller, Inspector and other employees for the State for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to intra State trade and commerce.

(2) The qualifications of the Controller and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Controller and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the State Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise and discharge the duties under the general superintendence, direction and control of the Controller.

Power of  
inspection,  
seizure, etc.

15. (1) The Director, Controller or any legal metrology officer may, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any weight or measure or other goods in relation to which any trade and commerce has taken place or is intended to take place and in respect of which an offence punishable under this Act appears to have been, or is likely to be, committed are either kept or concealed in any premises or are in the course of transportation,—

(a) enter at any reasonable time into any such premises and search for and inspect any weight, measure or other goods in relation to which trade and commerce has taken place, or is intended to take place and any record, register or other document relating thereto;

(b) seize any weight, measure or other goods and any record, register or other document or article which he has reason to believe may furnish evidence indicating that an offence punishable under this Act has been, or is likely to be, committed in the course of, or in relation to, any trade and commerce.

(2) The Director, Controller or any legal metrology officer may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person having the custody of such weight or measure shall comply with such requisition.

(3) Where any goods seized under sub-section (1) are subject to speedy or natural decay, the Director, Controller or legal metrology officer may dispose of such goods in such manner as may be prescribed.

2 of 1974.

(4) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures.

16. (1) Every non-standard or unverified weight or measure, and every package made in contravention of section 18, used in the course of, or in relation to, any trade and commerce and seized under section 15, shall be liable to be forfeited to the State Government;

Forfeiture.

Provided that such unverified weight or measure shall not be forfeited to the State Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.

(2) Every weight, measure or other goods seized under section 15 but not forfeited under sub-section (1), shall be disposed of by such authority and in such manner as may be prescribed.

17. (1) Every manufacturer, repairer or dealer of weight or measure shall maintain such records and registers as may be prescribed.

Manufacturers, etc., to maintain records and registers.

(2) The records and registers maintained under sub-section (1) shall be produced at the time of inspection to the persons authorised for the said purpose under sub-section (1) of section 15.

18. (1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.

Declarations on pre-packaged commodities.

(2) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.

19. No person shall import any weight or measure unless he is registered with the Director in such manner and on payment of such fees, as may be prescribed.

Registration for importer of weight or measure.

20. No weight or measure, whether singly or as a part or component of any machine shall be imported unless it conforms to the standards of weight or measure established by or under this Act.

Non-standard weights and measures not to be imported.

21. (1) For imparting training in Legal Metrology and other allied branches of knowledge the "Indian Institute of Legal Metrology" (hereinafter referred to as the "Institute") established under the provisions of the Standards of Weights and Measures Act, 1976, shall be deemed to have been established under the corresponding provisions of this Act.

Training in Legal Metrology.

60 of 1976.

(2) The management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto shall be such as may be prescribed.

22. Every person, before manufacturing or importing any weight or measure shall seek the approval of model of such weight or measure in such manner, on payment of such fee and from such authority as may be prescribed:

Approval of model.

Provided that such approval of model may not be required in respect of any cast iron, brass, bullion, or carat weight or any beam scale, length measures (not being measuring tapes) which are ordinarily used in retail trade for measuring textiles or timber, capacity measures, not exceeding twenty litre in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or potable liquors:

Provided further that the prescribed authority may, if he is satisfied that the model of any weight or measure which has been approved in a country outside India conforms to the standards established by or under this Act, approve such model without any test or after such test as he may deem fit.

Prohibition  
on  
manufacture,  
repair or sale  
of weight or  
measure  
without  
licence.

23. (1) No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under sub-section (2):

Provided that no licence to repair shall be required by a manufacturer for repair of his own weight or measure in a State other than the State of manufacture of the same.

(2) For the purpose of sub-section (1), the Controller shall issue a licence in such form and manner, on such conditions, for such period and such area of jurisdiction and on payment of such fee as may be prescribed.

#### CHAPTER IV

##### VERIFICATION AND STAMPING OF WEIGHT OR MEASURE

Verification  
and stamping  
of weight or  
measure.

24. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or is likely to be, used by him in any transaction or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf, on payment of such fees as may be prescribed.

(2) The Central Government may prescribe the kinds of weights and measures for which the verification is to be done through the Government approved Test Centre.

(3) The Government approved Test Centre shall be notified by the Central Government or the State Government, as the case may be, in such manner, on such terms and conditions and on payment of such fee as may be prescribed.

(4) The Government approved Test Centre shall appoint or engage persons having such qualifications and experience and collect such fee on such terms and conditions for the verification of weights and measures specified under sub-section (2) as may be prescribed.

#### CHAPTER V

##### OFFENCES AND PENALTIES

Penalty for use  
of non-  
standard weight  
or measure.

25. Whoever uses or keeps for use any weight or measure or makes use of any numeration otherwise than in accordance with the standards of weight or measure or the standard of numeration, as the case may be, specified by or under this Act, shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine.

Penalty for  
alteration of  
weight and  
measure.

26. Whoever tampers with, or alters in any way, any reference standard, secondary standard or working standard or increases or decreases or alters any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby, except where such alteration is made for the correction of any error noticed therein on verification, shall be punished with fine which may extend to fifty thousand rupees and for the second and subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine or with both.

Penalty for  
manufacture or  
sale of non-  
standard weight  
or measure.

27. Every person who manufactures or causes to be manufactured or sells or offers, exposes or possesses for sale, any weight or measure which,—

(a) does not conform to the standards of weight or measure specified by or under this Act; or

(b) which bears thereon any inscription of weight, measure or number which does not conform to the standards of weight, measure or numeration specified by or under this Act,

except where he is permitted to do so under this Act, shall be punished with a fine which may extend to twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both.

28. Whoever makes any transaction, deal or contract in contravention of the standards of weights and measures specified under section 10 shall be punished with fine which may extend to ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for making any transaction, deal or contract in contravention of the prescribed standards.

29. Whoever violates section 11 shall be punished with fine which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for quoting or publishing, etc., of non-standard units.

30. Whoever—

(a) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

Penalty for transactions in contravention of standard weight or measure.

(b) in rendering any service by weight, measure or number, renders that service less than the service contracted for or paid for; or

(c) in buying any article or thing by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(d) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

31. Whoever, being required by or under this Act or the rules made thereunder to submit returns, maintain any record or register, or being required by the Director or the Controller or any legal metrology officer to produce before him for inspection any weight or measure or any document, register or other record relating thereto, omits or fails without any reasonable excuse, so to do, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for non-production of documents, etc.

32. Whoever fails or omits to submit model of any weight or measure for approval, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for failure to get model approved.

33. Whoever, sells, distributes, delivers or otherwise transfers or uses any unverified weight or measure shall be punished with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for use of unverified weight or measure.

34. Whoever sells, or causes to be sold, delivers; or causes to be delivered, any commodity, article or thing by any means other than the standard weight or measure or number, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

Penalty for sale or delivery of commodities, etc., by non-standard weight or measure.

Penalty for rendering services by non-standard weight, measure or number.

35. Whoever renders or causes to be rendered, any service through means other than the weight or measure or numeration or in terms of any weight, measure or number other than the standard weight or measure, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

Penalty for selling, etc., of non-standard packages.

36. (1) Whoever manufactures, packs, imports, sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any pre-packaged commodity which does not conform to the declarations on the package as provided in this Act, shall be punished with fine which may extend to twenty-five thousand rupees, for the second offence, with fine which may extend to fifty thousand rupees and for the subsequent offence, with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

(2) Whoever manufactures or packs or imports or causes to be manufactured or packed or imported, any pre-packaged commodity, with error in net quantity as may be prescribed shall be punished with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and for the second and subsequent offence, with fine which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

Penalty for contravention by Government approved Test Centre.

37. (1) Where any Government approved Test Centre contravenes any of the provisions of this Act or the rules made thereunder, or the conditions of the licence, it shall be punished with fine which may extend to one lakh rupees.

(2) Where any owner or employee of a Government Approved Test Centre performing duties in accordance with the provisions of this Act or the rules made thereunder, wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or the rules made thereunder, he shall, for every such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

Penalty for non-registration by importer of weight or measure.

38. Whoever imports any weight or measure without being registered under this Act shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

Penalty for import of non-standard weight or measure.

39. Whoever imports any non-standard weight or measure shall be punished with fine, which may extend to fifty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for obstructing Director, Controller or legal metrology officer.

40. Whoever obstructs the Director, the Controller or any legal metrology officer with intent to prevent or deter the Director or the Controller or any legal metrology officer from exercising his powers or discharging his functions, or in consequence of anything done or attempted to be done by the Director or the Controller or any legal metrology officer in the lawful exercise of his powers or discharge of his functions as such, or whoever obstructs the entry of the Director or the Controller or any legal metrology officer into any premises for inspection and verification of any weight or measure or any document or record relating thereto or the net contents of any packaged commodity or for any other purpose shall be punished with imprisonment for a term which may extend to two years and for the second or subsequent offence, with imprisonment for a term which may extend to five years.

Penalty for giving false information or false return.

41. (1) Whoever gives any information to the Director, the Controller or any legal metrology officer, which he may require or ask for in the course of his duty, and which such person either knows or has reason to believe to be false, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to six months and also with fine.

(2) Whoever, being required by or under this Act so to do, submits a return or maintains any record or register which is false in material particulars, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

42. The Director, the Controller or any legal metrology officer, exercising powers under this Act or any rule made thereunder, who knows that there are no reasonable grounds for so doing, and yet—

Vexatious search.

(a) searches, or causes to be searched, any house, conveyance or place; or

(b) searches any person; or

(c) seizes any weight, measure or other movable property;

shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

43. Where the Controller or any legal metrology officer exercising powers under this Act or any rule made thereunder, wilfully verifies or stamps any weight or measure, in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

Penalty for verification in contravention of Act and rules.

44. (1) Whoever—

Penalty for counterfeiting of seals, etc.

(i) counterfeits any seal specified by or under this Act or the rules made thereunder, or

(ii) sells or otherwise disposes of any counterfeit seal, or

(iii) possesses any counterfeit seal, or

(iv) counterfeits or removes or tampers with any stamp, specified by or under this Act or rules made thereunder, or

(v) affixes the stamp so removed on, or inserts the same into, any other weight or measure,

shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

*Explanation.*—In this sub-section, “counterfeit” shall have the meaning assigned to it in section 28 of the Indian Penal Code.

45 of 1860.

(2) Whoever obtains, by unlawful means, any seal specified by or under this Act or the rules made thereunder and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the rules made thereunder shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the rules made thereunder, uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(4) Whoever sells or offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

45. Whoever, being required to obtain a licence under this Act or the rules made thereunder, manufactures, without being in possession of a valid licence, any weight or measure, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for manufacture of weight and measure without licence.



Penalty for repair, sale, etc., of weight and measure without licence.

46. Whoever, being required to obtain a licence under this Act or the rules made thereunder repairs or sells or offers, exposes or possesses for repair or sale, any weight or measure, without being in possession of a valid licence, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for tampering with licence.

47. Whoever alters or otherwise tampers, with any licence issued or renewed under this Act or rules made thereunder, otherwise than in accordance with any authorisation made by the Controller in this behalf, shall be punished with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one year or with both.

Compounding of offences.

48. (1) Any offence punishable under section 25, sections 27 to 39, sections 45 to 47, or any rule made under sub-section (3) of section 52 may, either before or after the institution of the prosecution, be compounded, on payment for credit to the Government of such sum as may be prescribed.

(2) The Director or legal metrology officer as may be specially authorised by him in this behalf, may compound offences punishable under section 25, sections 27 to 39, or any rule made under sub-section (3) of section 52.

(3) The Controller or legal metrology officer specially authorised by him, may compound offences punishable under section 25, sections 27 to 31, sections 33 to 37, sections 45 to 47, and any rule made under sub-section (3) of section 52:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine, which may be imposed under this Act for the offence so compounded.

(4) Nothing in sub-section (1) shall apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded.

*Explanation.*—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(5) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded.

(6) No offence under this Act shall be compounded except as provided by this section.

Offences by companies and power of court to publish name, place of business, etc., for companies convicted.

49. (1) Where an offence under this Act has been committed by a company,—

(a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as a person responsible); or

(ii) where no person has been nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Director or the concerned Controller or any legal metrology officer authorised in this behalf



by such Controller (hereinafter in this section referred to as the authorised officer) in such form and in such manner as may be prescribed, that it has nominated such director as the person responsible, along with the written consent of such director for being so nominated.

*Explanation.*—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2) shall, until—

(i) further notice cancelling such nomination is received from the company by the Director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the Director or the concerned Controller or the legal metrology officer under intimation to the company, to cancel the nomination, which request shall be complied with by the Director or the concerned Controller or the legal metrology officer,

whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director of the company, he shall intimate the fact of such cessation to the Director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii) the Director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to the neglect on the part of, any director, manager, secretary or other officer, not being a person nominated under sub-section (2), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where any company is convicted under this Act for contravention of any of the provisions thereof, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspaper or in such other manner as the court may direct.

(6) No publication under sub-section (5) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(7) The expenses of any publication under sub-section (5) shall be recoverable from the company as if it were a fine imposed by the court.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm but excludes nominated directors, honorary directors, Government nominated directors.

50. (1) Subject to the provisions of sub-section (2), an appeal shall lie,—

Appeals.

(a) from every decision or order under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52 by the legal metrology officer appointed under section 13, to the Director;

(b) from every decision or order made by the Director of Legal Metrology under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52, to the Central Government or any officer specially authorised in this behalf by that Government;

(c) from every decision given by the Controller of Legal Metrology under delegated powers of Director Legal Metrology to the Central Government;

(d) from every decision given or order made under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 by any legal metrology officer appointed under section 14, to the Controller; and

(e) from every decision given or order made by the Controller under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 not being an order made in appeal under clause (d), to the State Government or any officer specially authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within sixty days from the date on which the impugned order was made:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal, a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision or order appealed against or may send back the case with such direction as it may think fit for a fresh decision or order after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fees, as may be prescribed.

(5) The Central Government or the State Government, as the case may be, may on its own motion or otherwise, call for and examine the record of any proceeding including a proceeding in appeal in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

Provisions of Indian Penal Code and Code of Criminal Procedure not to apply. Power of the Central Government to make rules.

51. The provisions of the Indian Penal Code and section 153 of the Code of Criminal Procedure, 1973 in so far as such provisions relate to offences with regard to weight or measure, shall not apply to any offence which is punishable under this Act. 45 of 1860. 2 of 1974.

52. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the specification of the base units of measures and base unit of mass under sub-section (2) of section 5;

(b) the manner of preparation of objects and equipments under sub-section (3) of section 7;

(c) physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, period of re-verification, methods or procedures of tests under sub-section (4) of section 7;

(d) reference standards, secondary standards and working standards of weights and measures under sub-section (1) of section 9;

(e) reference standards, secondary standards and working standards shall be verified and stamped and the fee under sub-section (2) of section 9;

(f) the weight or measure or number in which any transaction, dealing, or contract in respect of any goods, class of goods or undertakings shall be made under section 10;

(g) the qualifications of the Director and legal metrology officers under sub-section (2) of section 13;

(h) the qualification of the Controller and legal metrology officers under sub-section (2) of section 14;

(i) the manner of disposal of goods under sub-section (3) of section 15;

(j) the standard quantities or number and the manner in which the packages shall bear the declarations and the particulars under sub-section (1) of section 18;

(k) the manner and registration and the fee under section 19;

(l) the management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto under sub-section (2) of section 21;

(m) the manner, fee and authority for approval of models under section 22;

(n) the kinds of weights or measures under sub-section (2) of section 24;

(o) the manner in which, terms and conditions on which and fee on payment which the Central Government shall notify the Government approved Test Centre under sub-section (3) of section 24;

(p) the qualifications and experience of persons appointed or engaged and the fee and terms and conditions on which Government approved Test Centre shall verify the weight or measure under sub-section (4) of section 24;

(q) the error in net quantity under sub-section (2) of section 36;

(r) fee for compounding of offence under sub-section (1) of section 48;

(s) form and manner in which notice to the Director or the Controller or any other officer authorised by him shall be given under sub-section (2) of section 49.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

53. (1) The State Government may, by notification, and after consultation with the Central Government, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which the weight or measure may be got verified under proviso to sub-section (1) of section 16;

(b) registers and records to be maintained by persons referred to under sub-section (1) of section 17;

(c) the form, manner, conditions, period, area of jurisdiction and fees for issuance of licence under sub-section (2) of section 23;

Power of  
State  
Government  
to make rules.

(d) fee for verification and stamping of any weight or measure under sub-section (1) of section 24;

(e) manner of notifying Government approved Test Centre, terms and conditions and fee to be paid under sub-section (3) of section 24;

(f) fee for compounding of offences under sub-section (1) of section 48.

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication in Official Gazette.

(5) Every rule made under this section shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Delegation of Powers.

54. (1) The Central Government may, in consultation with the State Government and by notification, direct that any power exercisable by it under this Act or any rule made thereunder, not being a power conferred by section 50 relating to appeal or section 52 relating to power to make rules, in relation to such matters and subject to such conditions as may be specified, may be exercised also by such officer subordinate to it as may be specified in the notification.

(2) Subject to any general or special direction or condition imposed by the State Government, any person authorised by the Central Government to exercise any powers may exercise those powers in the same manner and to the same extent as if they had been conferred on that person directly by this Act and not by way of delegation.

Act not to apply in certain cases.

55. The provisions of this Act, in so far as they relate to verification and stamping of weights and measures, shall not apply to any weight or measure,—

(a) used in any factory exclusively engaged in the manufacture of any arms, ammunition or both, for the use of the Armed Forces of the Union;

(b) used for scientific investigation or for research;

(c) manufactured exclusively for export.

Existing Director, Controller and legal metrology officer not to be affected by the new qualification to be prescribed.

56. (1) Every Director, Controller and legal metrology officer appointed immediately before the commencement of the rules made under this Act, shall be deemed to have been appointed under sub-section (1) of sections 13 and 14, notwithstanding any rule prescribing different qualifications.

(2) The rules made by a State Government under the Standards of Weights and Measures (Enforcement) Act, 1985 which are in force immediately before the commencement of this Act shall remain in force until the State Government, makes rules in that behalf. 54 of 1985.

Repeal of the Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Enforcement) Act, 1985.

57. (1) The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, is hereby repealed. 60 of 1976. 54 of 1985.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, any notification, rule or order made under the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, shall, if in force, at the commencement of this Act, continue to be in force and have effect as if it was made under the corresponding provision of this Act. 10 of 1897. 60 of 1976. 54 of 1985.

(3) Notwithstanding such repeal, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given under such law shall, if in force at the commencement of this Act, continue to be in force and have effect as if it were made, issued or given under the corresponding provisions of this Act.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 10th May 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 8th May 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

## THE FINANCE ACT, 2010

(Act No. 14 of 2010)

*An Act to give effect to the financial proposals of the Central Government for the financial year 2010-2011.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Finance Act, 2010.

(2) Save as otherwise provided in this Act, sections 2 to 56 shall be deemed to have come into force on the 1st day of April, 2010.

Short title  
and  
commence-  
ment.

### CHAPTER II

#### RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2010, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

Income-tax.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh sixty thousand rupees; then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh sixty thousand rupees of the total income

but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "two lakh forty thousand rupees" had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be: 43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of a domestic company, at the rate of ten per cent. of such income-tax where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax and surcharge on such income-tax shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of seven and one-half per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two and one-half per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two and one-half per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every domestic company, at the rate of seven and one-half per cent. of such "advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax" where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh sixty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh sixty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "two lakh forty thousand rupees" had been substituted.



(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2010, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

### CHAPTER III

#### DIRECT TAXES

#### *Income-tax*

3. In section 2 of the Income-tax Act,—

(a) in clause (15), after the proviso, the following proviso shall be inserted and

Amendment  
of section 2.

shall be deemed to have been inserted with effect from the 1st day of April, 2009, namely:—

“Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is ten lakh rupees or less in the previous year.”;

(b) in clause (24), in sub-clause (xv), after the words, brackets and figures “value of property referred to in clause (vii)”, the words, brackets, figures and letter “or clause (viii)” shall be inserted with effect from the 1st day of June, 2010.

Amendment  
of section 9.

4. In section 9 of the Income-tax Act, for the *Explanation* occurring after sub-section (2), the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1976, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this section, income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) and shall be included in the total income of the non-resident, whether or not,—

(i) the non-resident has a residence or place of business or business connection in India; or

(ii) the non-resident has rendered services in India.”.

Amendment  
of section 10.

5. In section 10 of the Income-tax Act, in clause (21), with effect from the 1st day of April, 2011,—

(a) for the words “scientific research association”, wherever they occur, the words “research association” shall be substituted;

(b) in the opening portion, after the word, brackets and figures “clause (ii)”, the words, brackets and figures “or clause (iii)” shall be inserted;

(c) in the first proviso, in clause (a),—

(A) in sub-clause (i),—

(I) in item (2), for the words “scientific research”, the words “scientific research or research in social science or statistical research” shall be substituted;

(II) in item (3), after the word, brackets and figures “clause (ii)”, the words, brackets and figures “or clause (iii)” shall be inserted;

(B) in sub-clause (ii), for the words “scientific research”, the words “scientific research or research in social science or statistical research” shall be substituted.

Amendment  
of section  
10AA.

6. In section 10AA of the Income-tax Act, in sub-section (7), the following proviso shall be inserted, namely:—

“Provided that the provisions of this sub-section [as amended by section 6 of the Finance (No. 2) Act, 2009] shall have effect for the assessment year beginning on the 1st day of April, 2006 and subsequent assessment years.” 33 of 2009.

Amendment  
of section  
12AA.

7. In section 12AA of the Income-tax Act, in sub-section (3), after the word, brackets and figure “sub-section (1)”, the words, figures, letter and brackets “or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996]” shall be inserted with effect from the 1st day of June, 2010. 33 of 1996.

8. In section 32 of the Income-tax Act, in sub-section (1), in the fifth proviso, for the words, brackets and figures "clause (xiii) and clause (xiv)", the words, brackets, figures and letter "clause (xiii), clause (xiiib) and clause (xiv)" shall be substituted with effect from the 1st day of April, 2011. Amendment of section 32.

9. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2011,— Amendment of section 35.

(i) in sub-section (1),—

(a) for the words "scientific research association", wherever they occur, the words "research association" shall be substituted;

(b) in clause (ii), for the words "one and one-fourth", the words "one and three-fourth" shall be substituted;

(c) in clause (iii),—

(A) for the words "any sum paid to a university", the words "any sum paid to a research association which has as its object the undertaking of research in social science or statistical research or to a university" shall be substituted;

(B) in the proviso, for the words "such university", at both the places where they occur, the words "such association, university" shall be substituted;

(ii) in sub-section (2AA), in clause (a), for the words "one and one-fourth", the words "one and three-fourth" shall be substituted;

(iii) in sub-section (2AB), in clause (1), for the words "one and one-half", the word "two" shall be substituted.

10. In section 35AD of the Income-tax Act,—

Amendment of section 35AD.

(a) in sub-section (2), in clause (iii), in sub-clause (c), for the words "one-third of its total pipeline capacity", the words, brackets and figures "such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006" shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2011, namely:—

“(3) Where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of Chapter VI-A under the heading “C.—Deductions in respect of certain incomes” in relation to such specified business for the same or any other assessment year.”;

(c) in sub-section (5), with effect from the 1st day of April, 2011,—

(i) in clause (a), the word “and”, occurring at the end, shall be omitted;

(ii) after clause (a), the following clauses shall be inserted, namely:—

“(aa) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hotel of two-star or above category as classified by the Central Government;

(ab) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hospital with at least one hundred beds for patients;

(ac) on or after the 1st day of April, 2010, where the specified business is in the nature of developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and”;

(iii) in clause (b), for the word, brackets and letter “clause (a)”, the words, brackets and letters “clause (a), clause ~~(ad)~~, clause ~~(ab)~~ and clause (ac)” shall be substituted;

(d) in sub-section (8) in clause (c), after sub-clause (iii), the following sub-clauses shall be inserted with effect from the 1st day of April, 2011, namely:—

“(iv) building and operating, anywhere in India, a new hotel of two-star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a new hospital with at least one hundred beds for patients;

(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;”.

Amendment  
of section  
35DDA.

11. In section 35DDA of the Income-tax Act, with effect from the 1st day of April, 2011,—

(a) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where there has been reorganisation of business, whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, the provisions of this section shall, as far as may be, apply to the successor limited liability partnership, as they would have applied to the said company, if reorganisation of business had not taken place.”;

(b) in sub-section (5), for the words, brackets and figures “sub-section (3) and in the case of a firm or proprietary concern referred to in sub-section (4)”, the words, brackets, figures and letter “sub-section (3), in the case of a firm or proprietary concern referred to in sub-section (4) and in the case of a company referred to in sub-section (4A)” shall be substituted.

Amendment  
of section 40.

12. In section 40 of the Income-tax Act, in clause (a), in sub-clause (ia),—

(a) for the portion beginning with the words “has not been paid,—” and ending with the words “the last day of the previous year”, the words, brackets and figures “has not been paid on or before the due date specified in sub-section (1) of section 139” shall be substituted;

(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”.

13. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2011,—

Amendment  
of section 43.

(a) in clause (1), in *Explanation* 13, in clause (b), in sub-clause (iii), for the brackets, figures and word “(xiii) and (xiv)”, the brackets, figures, letter and word “(xiii), (xiiib) and (xiv)” shall be substituted;

(b) in clause (6), after *Explanation* 2B, the following *Explanation* shall be inserted, namely:—

“*Explanation* 2C.—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (xiiib) of section 47 are satisfied, then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited liability partnership.”

14. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2011,—

Amendment of  
section 44AB.

(a) in clause (a), for the words “forty lakh rupees”, the words “sixty lakh rupees” shall be substituted;

(b) in clause (b), for the words “ten lakh rupees”, the words “fifteen lakh rupees” shall be substituted.

33 of 2009.

15. In section 44AD of the Income-tax Act [as amended by section 20 of the Finance (No. 2) Act, 2009], in the *Explanation*, in clause (b), in sub-clause (ii), for the words “forty lakh rupees”, the words “sixty lakh rupees” shall be substituted with effect from the 1st day of April, 2011.

Amendment of  
section 44AD.

16. In section 44BB of the Income-tax Act, in the proviso to sub-section (1), after the words, figures and letter “section 44D or”, the words, figures and letters “section 44DA or” shall be inserted with effect from the 1st day of April, 2011.

Amendment of  
section 44BB.

17. In section 44DA of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2011, namely:—

Amendment of  
section 44DA.

“Provided further that the provisions of section 44BB shall not apply in respect of the income referred to in this section.”

18. In section 47 of the Income-tax Act, after clause (xiia), the following shall be inserted with effect from the 1st day of April, 2011, namely:—

Amendment of  
section 47.

“(xiiib) any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008:

6 of 2009

Provided that—

(a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;

(b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;

(d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent. at any time during the period of five years from the date of conversion;

(e) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; and

(f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

*Explanation.*—For the purposes of this clause, the expressions “private company” and “unlisted public company” shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008;’

6 of 2009.

Amendment  
of section  
47A.

19. In section 47A of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of April, 2011, namely:—

“(4) Where any of the conditions laid down in the proviso to clause (xiiib) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 45 by virtue of conditions laid down in the said proviso shall be deemed to be the profits and gains chargeable to tax of the successor limited liability partnership or the shareholder of the predecessor company, as the case may be, for the previous year in which the requirements of the said proviso are not complied with.”

Amendment  
of section 49.

20. In section 49 of the Income-tax Act,—

(a) in sub-section (1), in clause (iii), in sub-clause (e), for the words, brackets, figures and letters “clause (viib) of section 47”, the words, brackets, figures and letters “clause (viib) or clause (xiiib) of section 47” shall be substituted with effect from the 1st day of April, 2011;

(b) after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 2011, namely:—

“(2AAA) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008, became the property of the assessee on conversion as referred to in clause (xiiib) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.”;

6 of 2009.

(c) in sub-section (4), after the word, brackets and figures “clause (vii)”, at both the places where they occur, the words, brackets, figures and letter “or clause (viia)” shall be inserted with effect from the 1st day of June, 2010.

Amendment  
of section 56.

21. In section 56 of the Income-tax Act, in sub-section (2),—

(a) in clause (vii),—

(i) for sub-clause (b), the following sub-clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009, namely:—

“(b) any immovable property, without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value

(ii) in the *Explanation*, in clause (d),—

(A) in the opening portion, for the word “means—”, the words “means the following capital asset of the assessee, namely:—” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009;

(B) in sub-clause (vii), the word “or” shall be omitted with effect from the 1st day of June, 2010;

(C) in sub-clause (viii), the word “or” shall be inserted at the end with effect from the 1st day of June, 2010;

(D) after sub-clause (viii), the following sub-clause shall be inserted with effect from the 1st day of June, 2010, namely:—

“(ix) bullion;”;

(b) after clause (vii), the following shall be inserted with effect from the 1st day of June, 2010, namely:—

“(viiia) where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested,—

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under clause (via) or clause (vic) or clause (vicb) or clause (vid) or clause (vii) of section 47.

*Explanation.*—For the purposes of this clause, “fair market value” of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the *Explanation* to clause (vii);’.

22. In section 72A of the Income-tax Act, with effect from the 1st day of April, 2011,—

(a) after sub-section (6), the following shall be inserted, namely:—

“(6A) Where there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the purpose of the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Amendment  
of section  
72A.

Provided that if any of the conditions laid down in the proviso to clause (xiib) of section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which such conditions are not complied with.”;

(b) in sub-section (7), for clauses (a) and (b), the following clauses shall, respectively, be substituted, namely:—

“(a) “accumulated loss” means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or conversion or amalgamation or demerger had not taken place;

(b) “unabsorbed depreciation” means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or conversion or amalgamation or demerger had not taken place.”.

Amendment  
of section  
80A.

23. In section 80A of the Income-tax Act, after sub-section (6) and the *Explanation* thereto, the following sub-section shall be inserted with effect from the 1st day of April, 2011, namely:—

“(7) Where a deduction under any provision of this Chapter under the heading “C.—Deductions in respect of certain incomes” is claimed and allowed in respect of profits of any of the specified business referred to in clause (c) of sub-section (8) of section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.”.

Insertion of  
new section  
80CCF.

Deduction in  
respect of  
subscription  
to long-term  
infrastructure  
bonds.

24. After section 80CCE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2011, namely:—

“80CCF. In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, the whole of the amount, to the extent such amount does not exceed twenty thousand rupees, paid or deposited, during the previous year relevant to the assessment year beginning on the 1st day of April, 2011, as subscription to long-term infrastructure bonds as may, for the purposes of this section, be notified by the Central Government.”.

Amendment  
of section  
80D.

25. In section 80D of the Income-tax Act, in sub-section (2), in clause (a), after the words “his family”, the words “or any contribution made to the Central Government Health Scheme” shall be inserted with effect from the 1st day of April, 2011.

Amendment  
of section  
80GGA.

26. In section 80GGA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2011,—

(a) in clause (a), for the words “scientific research association”, the words “research association” shall be substituted;



(b) in clause (aa),—

(A) for the words “to a University”, the words “to a research association which has as its object the undertaking of research in social science or statistical research or to a University” shall be substituted;

(B) in the proviso, for the words “such University”, the words “such association, University” shall be substituted;

(C) in the *Explanation*, for the words “scientific research association”, the words “research association” shall be substituted.

27. In section 80-IB of the Income-tax Act, in sub-section (10),—

Amendment  
of section  
80-IB.

(i) in clause (a),—

(a) in sub-clause (ii), after the words, figures and letters “the 1st day of April, 2004”, the words, figures and letters “but not later than the 31st day of March, 2005” shall be inserted;

(b) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) in a case where a housing project has been approved by the local authority on or after the 1st day of April, 2005, within five years from the end of the financial year in which the housing project is approved by the local authority.”;

(ii) in clause (d),—

(a) for the words “five per cent.”, the words “three per cent.” shall be substituted;

(b) for the words “two thousand square feet, whichever is less”, the words “five thousand square feet, whichever is higher” shall be substituted.

28. In section 80-ID of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2011,—

Amendment  
of section  
80-ID.

(a) in clause (i), for the words, figures and letters “the 31st day of March, 2010”, the words, figures and letters “the 31st day of July, 2010” shall be substituted;

(b) in clause (ii), for the words, figures and letters “the 31st day of March, 2010”, the words, figures and letters “the 31st day of July, 2010” shall be substituted.

29. In section 115JAA of the Income-tax Act, after sub-section (6), the following shall be inserted with effect from the 1st day of April, 2011, namely:—

Amendment  
of section  
115JAA.

“(7) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008, the provisions of this section shall not apply to the successor limited liability partnership.

*Explanation*—For the purposes of this section, the expressions “private company” and “unlisted public company” shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008.”

30. In section 115JB of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2011,—

Amendment  
of section  
115JB.

(a) for the words, figures and letters “the 1st day of April, 2010”, the words, figures and letters “the 1st day of April, 2011” shall be substituted;

(b) for the words “fifteen per cent.” at both the places where they occur, the words “eighteen per cent.” shall be substituted.

Amendment  
of section  
115WE.

31. In section 115WE of the Income-tax Act, in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2010", the words, figures and letters "after the 31st day of March, 2011" shall be substituted.

Amendment  
of section  
139.

32. In section 139 of the Income-tax Act, in sub-section (4C), for the words "scientific research association" at both the places where they occur, the words "research association" shall be substituted with effect from the 1st day of April, 2011.

Amendment  
of section  
142A.

33. In section 142A of the Income-tax Act, in sub-section (1), for the words, figures and letter "section 69B is required to be made", the words, figures, letter and brackets "section 69B or fair market value of any property referred to in sub-section (2) of section 56 is required to be made" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
143.

34. In section 143 of the Income-tax Act,—

(a) in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2010", the words, figures and letters "after the 31st day of March, 2011" shall be substituted;

(b) in sub-section (3), in the first proviso, for the words "scientific research association", wherever they occur, the words "research association" shall be substituted with effect from the 1st day of April, 2011.

Amendment  
of section  
194B.

35. In section 194B of the Income-tax Act, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
194BB.

36. In section 194BB of the Income-tax Act, for the words "two thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
194C.

37. In section 194C of the Income-tax Act, in sub-section (5), with effect from the 1st day of July, 2010,—

(a) for the words "twenty thousand rupees", the words "thirty thousand rupees" shall be substituted;

(b) in the proviso, for the words "fifty thousand rupees", the words "seventy-five thousand rupees" shall be substituted.

Amendment  
of section  
194D.

38. In section 194D of the Income-tax Act, in the second proviso, for the words "five thousand rupees", the words "twenty thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
194H.

39. In section 194H of the Income-tax Act, in the first proviso, for the words "two thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
194-I.

40. In section 194-I of the Income-tax Act, in the first proviso, for the words "one hundred and twenty thousand rupees", the words "one hundred eighty thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
194J.

41. In section 194J of the Income-tax Act, in the first proviso to sub-section (1), in clause (B), for the words "twenty thousand rupees", wherever they occur, the words "thirty thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment  
of section  
201.

42. In section 201 of the Income-tax Act, for sub-section (1A), the following sub-section shall be substituted with effect from the 1st day of July, 2010, namely:—

"(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(i) at one per cent. for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at one and one-half per cent. for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid,

and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of section 200.”.

43. In section 203 of the Income-tax Act, sub-section (3) shall be omitted.

Amendment  
of section 203.

44. In section 206C of the Income-tax Act, in sub-section (5),—

Amendment  
of section  
206C.

(a) the first proviso shall be omitted;

(b) in the second proviso, for the words “Provided further”, the word “Provided” shall be substituted.

45. In section 245A of the Income-tax Act, in clause (b), with effect from the 1st day of June, 2010,—

Amendment  
of section  
245A.

(i) in the proviso, clauses (ii) and (iii) shall be omitted;

(ii) in the *Explanation*,—

(a) clause (ii) shall be omitted;

(b) after clause (iii), the following clause shall be inserted, namely:—

“(iiia) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (b) of sub-section (1) of section 153A in case of a person referred to in section 153A or section 152C, shall be deemed to have commenced on the date of issue of notice initiating such proceeding and concluded on the date on which the assessment is made;”;

(c) in clause (iv), for the words, brackets and figures “clause (ii) or clause (iii) or clause (iv) of the proviso”, the words, brackets, figures and letter “clause (iv) of the proviso or clause (iiia) of the *Explanation*” shall be substituted.

46. In section 245C of the Income-tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted with effect from the 1st day of June, 2010, namely:—

Amendment  
of section  
245C.

“Provided that no such application shall be made unless,—

(i) in a case where proceedings for assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of a person referred to in section 153A or section 153C have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees,

(ii) in any other case, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,

and such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.”.

47. In section 245D of the Income-tax Act, in sub-section (4A),—

Amendment  
of section  
245D.

(a) in clause (ii), after the words, figures and letters “the 1st day of June, 2007”, the words, figures and letters “but before the 1st day of June, 2010” shall be inserted;

(b) after clause (ii), the following clause shall be inserted with effect from the 1st day of June, 2010, namely:—

“(iii) in respect of an application made on or after the 1st day of June, 2010, within eighteen months from the end of the month in which the application was made.”

Amendment  
of section  
256.

48. In section 256 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1981, namely:—

“(2A) The High Court may admit an application after the expiry of the period of six months referred to in sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.”

Amendment  
of section  
260A.

49. In section 260A of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

“(2A) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in clause (a) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.”

Amendment  
of section  
271B.

50. In section 271B of the Income-tax Act, for the words “one hundred thousand rupees”, the words “one hundred fifty thousand rupees” shall be substituted with effect from the 1st day of April, 2011.

Amendment  
of section  
282B.

51. In section 282B of the Income-tax Act [as inserted by section 78 of the Finance (No. 2) Act, 2009], with effect from the 1st day of October, 2010,—

33 of 2009.

(a) in sub-section (1), for the words “income-tax authority shall”, the words, figures and letters “income-tax authority shall, on or after the 1st day of July, 2011,” shall be substituted;

(b) in sub-section (3), for the words “received by”, the words, figures and letters “received, on or after the 1st day of July, 2011, by” shall be substituted.

Amendment  
of First  
Schedule.

52. In the First Schedule to the Income-tax Act, in rule 5, for clause (b) [as inserted by clause (ii) of section 80 of the Finance (No.2) Act, 2009], the following clause shall be substituted with effect from the 1st day of April, 2011, namely:—

33 of 2009.

“(b) (i) any gain or loss on realisation of investments shall be added or deducted, as the case may be, if such gain or loss is not credited or debited to the profit and loss account;

(ii) any provision for diminution in the value of investment debited to the profit and loss account, shall be added back;”

#### Wealth-tax

Amendment  
of section  
22A.

53. In section 22A of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in clause (b), with effect from the 1st day of June, 2010,—

27 of 1957.

(i) in the proviso, clause (iii) shall be omitted;

(ii) in the Explanation,—

(a) for clause (iii), the following clause shall be substituted, namely:—

“(iii) a proceeding for assessment or reassessment for any of the assessment years, in consequence of a search initiated under section 37A or requisition made under section 37B, shall be deemed to have commenced on the date of issue of notice initiating such proceedings and concluded on the date on which the assessment is made;”

(b) in clause (iv), for the words, brackets and figures "or clause (iii) of the proviso", the words, brackets and figures "of the proviso or clause (iii) of the *Explanation*" shall be substituted.

54. In section 22D of the Wealth-tax Act, in sub-section (4A),—

Amendment  
of section  
22D.

(a) in clause (ii), after the words, figures and letters "the 1st day of June, 2007", the words, figures and letters "but before the 1st day of June, 2010" shall be inserted;

(b) after clause (ii), the following clause shall be inserted with effect from the 1st day of June, 2010, namely:—

"(iii) in respect of an application made on or after the 1st day of June, 2010, within eighteen months from the end of the month in which the application was made."

55. In section 27 of the Wealth-tax Act, after sub-section (3A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1981, namely:—

Amendment  
of section 27.

"(3B) The High Court may admit an application after the expiry of the period of ninety days referred to in sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period."

56. In section 27A of the Wealth-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

Amendment  
of section 27A.

"(1A) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in sub-section (1), if it is satisfied that there was sufficient cause for not filing the same within that period."

## CHAPTER IV

### INDIRECT TAXES

#### Customs

52 of 1962.

57. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 127B, in sub-section (1), for the words "but excluding the goods not included in the entry made under this Act", the words "or otherwise" shall be substituted.

Amendment  
of section  
127B.

58. In section 127C of the Customs Act, in sub-section (6), the following proviso shall be inserted, namely:—

Amendment  
of section  
127C.

"Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months."

59. In section 127L of the Customs Act,—

Amendment  
of section  
127L.

(a) in sub-section (1),—

(i) the words, figures and letters "before the 1st day of June, 2007" shall be omitted;

(ii) in clause (i), after the words, brackets, figures and letter "sub-section (7) of section 127C", the words, figures, brackets and letter "as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C" shall be inserted;

(iii) in clause (ii), after the word, brackets and figure "sub-section (7)", the words, figures, brackets and letter "as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C" shall be inserted;

(b) sub-section (2) shall be omitted.

22 of 2007.

22 of 2007.

Amendment  
of  
notifications  
issued under  
sub-section (1)  
of section 25  
of Customs  
Act.

60. (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 118(E), dated the 1st March, 2002 and number G.S.R. 92(E), dated the 1st March, 2006, issued under sub-section (1) of section 25 of the Customs Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Second Schedule, on and from the corresponding date specified in column (4) of that Schedule, against each of the notifications specified in column (2) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in said sub-section (1) with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, retrospectively, at all material times.

(3) No suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made in said notifications had been in force at all material times.

(4) Recovery shall be made of the amount which has not been paid but which would have been paid as if the amendments made in the manner specified in said sub-section (1) had been in force at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in this section had not been amended retrospectively.

#### Customs tariff

Amendment  
of section 3

61. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in section 3, in sub-section (2), for the first proviso, the following proviso shall be substituted, namely:—

51 of 1975.

“ Provided that in case of an article imported into India,—

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

60 of 1976

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is—

(i) the goods specified by notification in the Official Gazette under sub-section (1) of section 4A of the Central Excise Act, 1944, the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of section 4A of that Act; or

1 of 1944

(ii) the goods specified by notification in the Official Gazette under section 3, read with clause (1) of *Explanation III* of the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under clause (2) of the said *Explanation*.

16 of 1955

*Explanation.*—Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.”

62. The First Schedule to the Customs Tariff Act shall be amended in the manner specified in the Third Schedule.

Amendment  
of First  
Schedule.

63. In the Second Schedule to the Customs Tariff Act, against heading No. 16, in column (3), for the entry "Rs. 2500 per tonne", the entry "Rs. 10000 per tonne" shall be substituted.

Amendment  
of Second  
Schedule.

#### Excise

1 of 1944.

64. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 11A, in sub-section (2B), after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Amendment of  
section 11A.

"*Explanation 3*.— For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of duty under this sub-section and interest thereon."

65. In section 32E of the Central Excise Act, in sub-section (1), for the words "but excluding the goods in respect of which no proper record has been maintained by the assessee in his daily stock register", the words "or otherwise" shall be substituted.

Amendment of  
section 32E.

66. In section 32F of the Central Excise Act, in sub-section (6), the following proviso shall be inserted, namely:—

Amendment of  
section 32F.

"Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months."

67. In section 32-O of the Central Excise Act,—

Amendment of  
section 32-O.

(a) in sub-section (1),—

(i) the words, figures and letters "before the 1st day of June, 2007" shall be omitted;

(ii) in clause (i), after the words, brackets, figures and letter "sub-section (7) of section 32F", the words, figures, brackets and letter "as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F," shall be inserted;

22 of 2007.

(iii) in clause (ii), after the word, brackets and figure "sub-section (7)", the words, figures, brackets and letter "as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F," shall be inserted;

22 of 2007.

(b) sub-section (2) shall be omitted.

68. In section 37 of the Central Excise Act, in sub-section (2), after clause (xiii), the following clause shall be inserted, namely:—

Amendment of  
section 37.

"(xiiiia) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of CENVAT credit;"

69. (1) The Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Fourth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule:

Amendment of  
Central Excise  
Rules, 1944 by  
insertion of  
new rule  
57CCC.

(2) Where a person opts to pay the amount in accordance with the provisions of the Central Excise Rules, 1944 as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost

Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of the final products, which are exempted from the whole of the duty of excise leviable thereon or chargeable to *nil* rate of duty, within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of September, 1996 and ending with the 31st day of March, 2000, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the Central Excise Rules, 1944, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Amendment  
of rule 57AD  
of Central  
Excise Rules,  
1944.

70. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 57D, as substituted by rule 2 of the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 203(E), dated the 1st March, 2000, and subsequently substituted as rule 57AD by rule 5 of the Central Excise [Second Amendment (Amendment)] Rules, 2000, published in the Gazette of India *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 298 (E), dated the 31st March, 2000, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Fifth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule against the rules specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of the final products, which are exempted from the whole of the duty of excise leviable thereon or chargeable to *nil* rate of duty, within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of



April, 2000 and ending with the 30th day of June, 2001 relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the Central Excise Rules, 1944, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

71. (1) In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act and published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 445(E), dated the 21st June, 2001, rule 6 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Sixth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rules specified in column (2) of that Schedule.

Amendment of rule 6 of CENVAT Credit Rules, 2001.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of exempted goods within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of July, 2001 and ending with the 28th day of February, 2002, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the CENVAT Credit Rules, 2001, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

72. (1) In the CENVAT Credit Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, and published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 144(E), dated the 1st March, 2002, rule 6 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3)

Amendment of rule 6 of CENVAT Credit Rules, 2002.

of the Seventh Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of exempted goods within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of March, 2002 and ending with the 9th day of September, 2004, relating to the provisions as amended by sub-section (1), shall be deemed to be, and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the CENVAT Credit Rules, 2002, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Amendment of  
rule 6 of  
CENVAT  
Credit Rules,  
2004.

73. (1) In the CENVAT Credit Rules, 2004, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, as published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 600(E), dated the 10th September, 2004, rule 6 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Eighth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant, certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of exempted goods, within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 10th day of September, 2004 and ending with the 31st day of March, 2008, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

74. In the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 156(E), dated the 14th day of March, 2006, issued under rule 5 of the CENVAT Credit Rules, 2004, with effect from the 14th day of March, 2006,—

Amendment of notification issued under rule 5 of CENVAT Credit Rules, 2004.

(A) in the opening portion,—

(i) in clause (a), for the words “used in”, the words “used in or in relation to” shall be substituted and shall be deemed to have been substituted;

(ii) in clause (b), for the words “used in”, the words “used for” shall be substituted and shall be deemed to have been substituted;

(B) in the Appendix, in condition 5, the portion beginning with the letters and words “i.e. Maximum refund” and ending with the letters and figures “i.e. Rs. 50” shall be omitted and shall be deemed to have been omitted.

#### Central Excise Tariff

75. The First Schedule to the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Ninth Schedule.

Amendment of First Schedule to Act 5 of 1986.

#### CHAPTER V

##### SERVICE TAX

76. In the Finance Act, 1994,—

Amendment of Act 32 of 1994.

(A) in section 65, save as otherwise provided, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) in clause (19), in sub-clause (ii), the *Explanation* shall be omitted;

(2) after clause (19a), the following clause shall be inserted, namely:—

“(19b) “business entity” includes an association of persons, body of individuals, company or firm but does not include an individual;”

(3) in clause (25b), for the words “commercial or industrial construction service”, the words “commercial or industrial construction” shall be substituted;

(4) for clause (77c), the following clause shall be substituted, namely:—

“(77c) “passenger” means any person boarding an aircraft in India for performing domestic journey or international journey;”

(5) for clause (82), the following clause shall be substituted, namely:—

“(82) “port service” means any service rendered within a port or other port, in any manner;”

(6) in clause (105),—

(a) for sub-clause (zn), the following sub-clause shall be substituted, namely:—

“(zn) to any person, by any other person, in relation to port services in a port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port;”;

(b) in sub-clause (zzc), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2003, namely:—

‘*Explanation*.—For the removal of doubts, it is hereby declared that the expression “commercial training or coaching centre” occurring in this sub-clause and in clauses (26), (27) and (90a) shall include any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression “commercial training or coaching” shall be construed accordingly;’;

(c) for sub-clauses (zzl) and (zzm), the following sub-clauses shall be substituted, namely:—

“(zzl) to any person, by any other person, in relation to port services in other port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within other port;

(zzm) to any person, by airports authority or by any other person, in any airport or a civil enclave:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the airport or civil enclave;”;

(d) in sub-clause (zzq),—

(i) the word “service” shall be omitted;

(ii) the following *Explanation* shall be inserted, namely:—

“*Explanation*.—For the purposes of this sub-clause, the construction of a new building which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer;”;

(e) in sub-clause (zzzh), the following *Explanation* shall be inserted, namely:—

“*Explanation*.—For the purposes of this sub-clause, construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or a person authorised by the builder before the grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer;”;

(f) for sub-clauses (zzzn) and (zzzo), the following sub-clauses shall be substituted, namely:—

“(zzzn) to any person, by any other person receiving sponsorship, in relation to such sponsorship, in any manner;

(zzzo) to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for domestic journey or international journey;”;

(g) in sub-clause (zzzr), the following *Explanation* shall be inserted, namely:—

‘*Explanation*.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “auction by the Government” means the Government property being auctioned by any person acting as auctioneer;’;

(h) in sub-clause (zzzz),—

(i) for the portion beginning with the words “to any person” and ending with the words “business or commerce”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007, namely:—

“to any person, by any other person, by renting of immovable property or any other service in relation to such renting, for use in the course of or for furtherance of, business or commerce.”;

(ii) in *Explanation* 1, after item (iv), the following item shall be inserted, namely:—

“(v) vacant land given on lease or licence for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce;”;

(i) in sub-clause (zzzze), the words “for use in the course, or furtherance, of business or commerce,” shall be omitted;

(j) in sub-clause (zzzzf), in the *Explanation*, for clauses (ii) and (iii), the following clause shall be substituted, namely:—

“(ii) the gross amount charged by the insurer from the policy holder for the said service provided or to be provided shall be equal to the maximum amount fixed by the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999, as fund management charges for unit linked insurance plan or the actual amount charged for the said purpose by the insurer from the policy holder, whichever is higher;”;

(k) *Explanation* to sub-clause (zzzzm) shall be omitted;

(l) after sub-clause (zzzzm), the following sub-clauses shall be inserted, namely:—

‘(zzzzn) to any person, by any other person, for promotion, marketing, organising or in any other manner assisting in organising games of chance, including lottery, Bingo or Lotto in whatever form or by whatever name called, whether or not conducted through internet or other electronic networks;

(zzzzo) by any hospital, nursing home or multi-speciality clinic,—

(i) to an employee of any business entity, in relation to health check-up or preventive care, where the payment for such check-up or preventive care is made by such business

entity directly to such hospital, nursing home or multi-speciality clinic; or

(ii) to a person covered by health insurance scheme, for any health check-up or treatment, where the payment for such health check-up or treatment is made by the insurance company directly to such hospital, nursing home or multi-speciality clinic;

(zzzzp) to any business entity, by any other person, in relation to storing, keeping or maintaining of medical records of employees of a business entity;

(zzzzq) to any person, by any other person, through a business entity or otherwise, under a contract for promotion or marketing of a brand of goods, service, event or endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotional activity for such goods, service or event.

*Explanation.*—For the purposes of this sub-clause, “brand” includes symbol, monogram, label, signature or invented words which indicate connection with the said goods, service, event or business entity;

(zzzzr) to any person, by any other person, by granting the right or by permitting commercial use or exploitation of any event including an event relating to art, entertainment, business, sports or marriage organised by such other person;

(zzzzs) to any person, by an electricity exchange, by whatever name called, approved by the Central Electricity Regulatory Commission constituted under section 76 of the Electricity Act, 2003, in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity related contract;

36 of 2003.

(zzzzt) to any person, by any other person, for—

(a) transferring temporarily; or

(b) permitting the use or enjoyment of,

any copyright defined in the Copyright Act, 1957, except the rights covered under sub-clause (a) of clause (1) of section 13 of the said Act;

14 of 1957.

(zzzzu) to a buyer, by a builder of a residential complex, or a commercial complex, or any other person authorised by such builder, for providing preferential location or development of such complex but does not include services covered under sub-clauses (zzg), (zzq), (zzzh) and in relation to parking place.

*Explanation.*—For the purposes of this sub-clause, “preferential location” means any location having extra advantage which attracts extra payment over and above the basic sale price;”

(B) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the word, brackets and letters “and (zzzzm)” the brackets, letters and word “, (zzzzm), (zzzzn), (zzzzo), (zzzzp), (zzzzq), (zzzzr), (zzzzs), (zzzzt) and (zzzzu)” shall be substituted;

(C) in section 73, in sub-section (3), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

*“Explanation 2.—For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of service tax under this sub-section and interest thereon.”;*

(D) in section 95, after sub-section (IF), the following sub-section shall be inserted, namely:—

*“(IG) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2010, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:*

*Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2010 receives the assent of the President.”.*

32 of 1994.

77. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under sub-clause (zzzz) of clause (105) of section 65 of the Finance Act, 1994, at any time during the period commencing on and from the 1st day of June, 2007 and ending with the day, the Finance Bill, 2010 receives the assent of the President, shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in sub-clause (zzzz) of clause (105) of section 65, by sub-item (i) of item (h) of sub-clause (6) of clause (4) of section 76 of the Finance Act, 2010 had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

Validation of action taken under sub-clause (zzzz) of clause (105) of section 65.

(a) any action taken or anything done or omitted to be taken or done in relation to the levy and collection of service tax during the said period on the taxable service of renting of immovable property, shall be deemed to be and deemed always to have been, as validly taken or done or omitted to be done as if the said amendment had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the levy and collection of such service tax and no enforcement shall be made by any court of any decree or order relating to such action taken or anything done or omitted to be done as if the said amendment had been in force at all material times;

(c) recovery shall be made of all such amounts of service tax, interest or penalty or fine or other charges which may not have been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, as if the said amendment had been in force at all material times.

*Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this amendment not come into force.*

#### CHAPTER VI CENTRAL SALES TAX

74 of 1956.

78. In the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act), in section 6A,—

Amendment of section 6A.

(a) in sub-section (2), for the portion beginning with the words “are true, he may” and ending with the words “declaration relates shall”, the words “are true and that no inter-State sale has been effected, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall, subject to the provisions of sub-section (3),” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Nothing contained in sub-section (2) shall preclude reassessment by the assessing authority on the ground of discovery of new facts or revision by a higher authority on the ground that the findings of the assessing authority are contrary to law, and such reassessment or revision may be done in accordance with the provisions of general sales tax law of the State.”.

Insertion of  
new Chapter  
VA.

79. After Chapter V of the Central Sales Tax Act, the following Chapter shall be inserted, namely:—

#### ‘CHAPTER VA

##### APPEALS TO THE HIGHEST APPELLATE AUTHORITY OF THE STATE

Appeals to  
highest  
appellate  
authority of  
State.

18A. (1) Notwithstanding anything contained in a State Act, any person aggrieved by an order made by the assessing authority under sub-section (2) of section 6A, or an order made under the provisions of sub-section (3) of that section, may, notwithstanding anything contained in the general sales tax law of the appropriate State, prefer an appeal to the highest appellate authority of the State against such order:

Provided that any incidental issues including the rate of tax, computation of assessable turnover and penalty may be raised in such appeal.

(2) An appeal under sub-section (1) shall be filed within sixty days from the date on which the order referred to in that sub-section is communicated to the aggrieved person:

Provided that any appeal forwarded by the highest appellate authority of a State to the first appellate authority under the proviso to sub-section (2) of section 25 and pending before such authority immediately before the appointed day shall be transferred, on such appointed day, to the highest appellate authority of the State and the same shall be treated as an appeal filed under sub-section (1) and dealt with accordingly.

*Explanation.*—For the purposes of this sub-section, “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) The highest appellate authority of a State may, after giving both the parties an opportunity of being heard, pass appropriate order.

(4) The highest appellate authority of the State may, as far as practicable, hear and decide such appeal within a period of six months from the date of filing of the appeal.

(5) Notwithstanding anything contained in a State Act, the highest appellate authority of a State may, on the application of the appellant and after considering relevant facts, including the deposit of any amount towards local or central sales tax in other States on the same goods, pass an order of stay subject to such terms and conditions as it thinks fit, and such order may, *inter alia*, indicate the portion of tax as assessed, to be deposited prior to admission of the appeal.

*Explanation.*—For the purposes of this section and sections 20, 21, 22 and 25, “highest appellate authority of a State”, with its grammatical variations, means any authority or tribunal or court, except the High Court, established or constituted under the general sales tax law of a State, by whatever name called.’

Amendment  
of section 20.

80. In section 20 of the Central Sales Tax Act, for sub-section (1) and the *Explanation* thereunder, the following sub-section shall be substituted, namely:—

“(1) An appeal shall lie to the Authority against any order passed by the highest appellate authority of a State under this Act determining issues relating to stock



transfers or consignments of goods, in so far as they involve a dispute of inter-State nature.”.

81. In section 22 of the Central Sales Tax Act,—

Amendment  
of section 22.

(a) for the word “pre-deposit”, wherever it occurs, the word “deposit” shall be substituted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely.—

“(1B) The Authority may issue direction for refund of tax collected by a State which has been held by the Authority to be not due to that State, or alternatively, direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction:

Provided that the amount of tax directed to be refunded by a State shall not exceed the amount of central sales tax payable by the appellant on the same transaction.”.

82. In section 25 of the Central Sales Tax Act, the proviso to sub-section (2) shall be omitted.

Amendment of  
section 25.

## CHAPTER VII

### CLEAN ENERGY CESS

83. (1) This Chapter extends to the whole of India.

Clean Energy  
Cess.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Clean Energy Cess, as duty of excise, on goods specified in the Tenth Schedule, being goods produced in India, at the rates set forth in the said Schedule for the purposes of financing and promoting clean energy initiatives, funding research in the area of clean energy or for any other purpose relating thereto.

(4) The proceeds of the cess levied under sub-section (3) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the cess for the purposes specified in sub-section (3), as it may consider necessary.

(5) The cess leviable under sub-section (3) shall be in addition to any cess or duty leviable on the goods specified in the Tenth Schedule under any other law for the time being in force.

(6) The cess leviable under sub-section (3) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States and the manner of assessment, collection, utilisation and any other matter relating to cess shall be such as may be prescribed by rules.

(7) The Central Government may, by notification in the Official Gazette, declare that any of the provisions of the Central Excise Act, 1944, relating to levy of and exemption from duty of excise, refund, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary, be applicable in respect of cess levied under sub-section (3).

1 of 1944.

84. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

Power of  
Central  
Government to  
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for —

(a) the manner of assessment, collection and utilisation of the cess under sub-section (6) of section 83;

(b) any other matter relating to the cess under sub-section (6) of section 83.

(3) Every rule made and every notification issued under this Chapter shall be laid as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

## CHAPTER VIII

### MISCELLANEOUS

Amendment  
of section 3 of  
Act 16 of  
1955.

85. In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, in section 3, in sub-section (1), after the words "dutiable goods", the brackets and words "(excluding goods produced or manufactured in a Special Economic Zone)" shall be inserted.

Amendment  
of Seventh  
Schedule to  
Act 14 of  
2001.

86. The Seventh Schedule to the Finance Act, 2001 shall be amended in the manner specified in the Eleventh Schedule.

Amendment  
of Seventh  
Schedule to  
Act 18 of  
2005.

87. The Seventh Schedule to the Finance Act, 2005 shall be amended in the manner specified in the Twelfth Schedule.

## THE FIRST SCHEDULE

(See section 2)

## PART I

## INCOME TAX

## Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

## Rates of income-tax

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,60,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,60,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,60,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 14,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 54,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

## Rates of income-tax

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,90,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,90,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 11,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 51,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

## Rates of income-tax

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 2,40,000                          | Nil;   |
| (2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,40,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 6,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;  |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 46,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

## Paragraph B

In the case of every co-operative society,—

## Rates of income-tax

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income

30 per cent.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income

30 per cent.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**PART II****RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES**

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

*Rate of income-tax*

1. In the case of a person other than a company—

(a) where the person is resident in India—

(i) on income by way of interest other than "Interest on securities"

10 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

30 per cent.;

(iii) on income by way of winnings from horse races

30 per cent.;

(iv) on income by way of insurance commission

10 per cent.;

	Rate of income-tax
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	
(C) any security of the Central or State Government	
(vi) on any other income	10 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	

	Rate of income-tax
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(J) on income by way of winnings from horse races	30 per cent.;
(K) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (IA) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (IA) of section 115A of the Income-tax Act, to a person resident in India—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;

	<i>Rate of income-tax</i>
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(I) on the whole of the other income	30 per cent.;
<b>2. In the case of a company—</b>	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on any other income	10 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(ii) on income by way of winnings from horse races	30 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(C) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	

	<i>Rate of income-tax</i>
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vii) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(ix) on any other income	40 per cent.

*Explanation.*—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

#### *Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of item 2(b) of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

### PART III

#### RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever



applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

*Paragraph A*

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,60,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,60,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,60,000;                 |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 34,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000                                  | Rs. 94,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,90,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,90,000;                 |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 31,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000                                  | Rs. 91,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, —

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 2,40,000                          | Nil;   |
| (2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,40,000;                 |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 26,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000                                  | Rs. 86,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000. |

*Paragraph B*

In the case of every co-operative society, —

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of seven and one-half per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

## PART IV

[See section 2(13)(c)]

## RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

**Rule 1.**—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

**Rule 2.**—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

**Rule 3.**—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

**Rule 4.**—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

**Rule 5.**—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

**Rule 6.**—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

**Rule 7.**—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

*Rule 8.—(1)* Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2010, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2010.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2011, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day

of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2011.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

**Rule 9.**—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

**Rule 10.**—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

**Rule 11.**—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

## THE SECOND SCHEDULE

[See section 60(I)]

Sl. No.	Notification number and date	Amendment	Date of effect of amendment																								
(1)	(2)	(3)	(4)																								
1.	G.S.R. number 118(E), dated 1st March, 2002 [21/2002-Customs, dated 1st March, 2002].	In the said notification, in the Table, for S. No. 573 and the entries relating thereto, the following S. Nos. and entries shall be substituted and shall be deemed to have been substituted, namely:— <table><tr><th>Sl. No.</th><th>Chapter or heading No. or sub-heading No.</th><th>Description of goods</th><th>Standard rate</th><th>Additional duty rate</th><th>Condition No.</th></tr><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th><th>(6)</th></tr><tr><td>"573</td><td>2716 00 00</td><td>Electrical energy removed from a Special Economic Zone into Domestic Tariff Area or non-processing areas of Special Economic Zone</td><td>16%</td><td>-</td><td>-</td></tr><tr><td>573A</td><td>2716 00 00</td><td>All goods, other than goods mentioned at S. No. 573</td><td>Nil</td><td>-</td><td>"</td></tr></table>	Sl. No.	Chapter or heading No. or sub-heading No.	Description of goods	Standard rate	Additional duty rate	Condition No.	(1)	(2)	(3)	(4)	(5)	(6)	"573	2716 00 00	Electrical energy removed from a Special Economic Zone into Domestic Tariff Area or non-processing areas of Special Economic Zone	16%	-	-	573A	2716 00 00	All goods, other than goods mentioned at S. No. 573	Nil	-	"	26th June, 2009
Sl. No.	Chapter or heading No. or sub-heading No.	Description of goods	Standard rate	Additional duty rate	Condition No.																						
(1)	(2)	(3)	(4)	(5)	(6)																						
"573	2716 00 00	Electrical energy removed from a Special Economic Zone into Domestic Tariff Area or non-processing areas of Special Economic Zone	16%	-	-																						
573A	2716 00 00	All goods, other than goods mentioned at S. No. 573	Nil	-	"																						
2.	G.S.R. number 92(E), dated 1st March, 2006 [20/2006-Customs, dated 1st March, 2006].	In the said notification, in the Table, after S. No. 66 and the entries relating thereto, the following S. No. and entries shall be inserted and shall be deemed to have been inserted, namely:— <table><tr><th>Sl. No.</th><th>Chapter, heading, sub-heading or tariff item of the First Schedule</th><th>Description of goods</th><th>Standard rate</th></tr><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th></tr><tr><td>"67</td><td>2716 00 00</td><td>All goods</td><td>Nil"</td></tr></table>	Sl. No.	Chapter, heading, sub-heading or tariff item of the First Schedule	Description of goods	Standard rate	(1)	(2)	(3)	(4)	"67	2716 00 00	All goods	Nil"	26th June, 2009												
Sl. No.	Chapter, heading, sub-heading or tariff item of the First Schedule	Description of goods	Standard rate																								
(1)	(2)	(3)	(4)																								
"67	2716 00 00	All goods	Nil"																								

## THE THIRD SCHEDULE

(See section 62)

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 24, in heading 2402,—

(i) for the entry in column (2) occurring against the tariff item 2402 20 30, the entry “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 60 millimetres” shall be substituted;

(ii) for the entry in column (2) occurring against the tariff item 2402 20 40, the entry “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 60 millimetres but not exceeding 70 millimetres” shall be substituted;

(iii) for the entry in column (2) occurring against the tariff item 2402 20 50, the entry “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres” shall be substituted;

(iv) after tariff item 2402 20 50 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
“2402 20 60	--- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	30%	—”;

(2) in Chapter 27,—

(a) for sub-heading 2712 20 and tariff items 2712 20 10 and 2712 20 90 and the entries relating thereto, the following tariff item and entries shall be substituted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
“2712 20 00	- Paraffin wax containing by weight less than 0.75% of oil	kg.	10%	—”;

(b) after tariff item 2712 90 30 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
“2712 90 40	--- Paraffin wax containing by weight 0.75% or more of oil	kg.	10%	—”;

## THE FOURTH SCHEDULE

[See section 69(1)]

Sl. No.	Provisions of Central Excise Rules, 1944 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
1.	Insertion of new rule 57CCC.	<p>In the Central Excise Rules, 1944, after rule 57CC, the following rule shall be inserted, namely:—</p> <p>“57CCC. Reversal of Actual Credit.—Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of September, 1996 and ending with the 28th day of February, 1997 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2) of rule 57C and sub-rules (1) and (2) of rule 57CC, a manufacturer availing credit of specified duty in respect of any inputs, other than inputs used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are not so chargeable to duty or chargeable to nil rate of duty, shall pay an amount equivalent to such credit attributable to inputs used in, or in relation to the manufacture of, such final products which are not chargeable to duty or chargeable to <i>nil</i> rate of duty, before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay an interest at the rate of twenty-four per cent. per annum from the date of clearance of goods till the date of payment of the said amount.”</p>	1st day of September, 1996 to 28th day of February, 1997 (both days inclusive).
2.	Rule 57CCC of the Central Excise Rules, 1944 as inserted by section 69 of the Finance Act, 2010.	<p>In the Central Excise Rules, 1944, for rule 57CCC, the following rule shall be substituted, namely:—</p> <p>“57CCC. Reversal of Actual Credit.—Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of March, 1997 and ending with the 31st day of March, 2000 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2) of rule 57C and sub-rule (1) and sub-rule (9) of rule 57CC, a manufacturer availing credit of specified duty in respect of any inputs, other than inputs used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are not so chargeable to duty, shall pay an amount equivalent to such credit attributable to inputs used in, or in relation to the manufacture of, such final products which are not chargeable to duty, before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay an interest at the rate of twenty-four per cent. per annum from the date of clearance of goods till the date of payment of the said amount.”</p>	1st day of March, 1997 to 31st day of March, 2000 (both days inclusive).



## THE FIFTH SCHEDULE

[See section 70(1)]

Sl. No.	Provisions of Central Excise Rules, 1944 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 57AD of Central Excise Rules, 1944 as inserted by notification number G.S.R. 298(E), dated the 31st March, 2000 [27/2000-Central Excise (N.T.), dated the 31st March, 2000].	<p>In the Central Excise Rules, 1944, in rule 57AD, after sub-rule (4), the following sub-rule shall be inserted, namely:—</p> <p>"(5) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of April, 2000 and ending with the 30th day of June, 2001 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the date of clearance till the date of payment of the said amount."</p>	1st day of April, 2000 to 30th day of June, 2001 (both days inclusive).

## THE SIXTH SCHEDULE

[See section 71(1)]

Sl. No.	Provisions of CENVAT Credit Rules, 2001 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 6 of the CENVAT Credit Rules, 2001 as published vide notification number G.S.R. 445(E), dated the 21st June, 2001 [31/2001-CENTRAL EXCISE (N.T.), dated the 21st June, 2001].	<p>In the CENVAT Credit Rules, 2001, in rule 6, after sub-rule (5), the following sub-rule shall be inserted, namely:—</p> <p>'(6) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of July, 2001 and ending with the 28th day of February, 2002 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1), (2) and (3), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods, before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the due date till the date of payment of the said amount.</p> <p><i>Explanation.</i>—For the purpose of this sub-rule, "due date" means the 5th day of the month following the month in which goods have been cleared from the factory.'</p>	1st day of July, 2001 to the 28th day of February, 2002 (both days inclusive).

## THE SEVENTH SCHEDULE

[See section 72(1)]

Sl. No.	Provisions of CENVAT Credit Rules, 2002 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 6 of the CENVAT Credit Rules, 2002 as published <i>vide</i> notification number G.S.R. 144(E), dated the 1st March, 2002 [5 / 2002 - CENTRAL EXCISE (N.T.), dated the 1st March, 2002].	<p>In the CENVAT Credit Rules, 2002, in rule 6, after sub-rule (5), the following sub-rule shall be inserted, namely:—</p> <p>‘(6) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of March, 2002 and ending with the 9th day of September, 2004 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1), (2) and (3), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the due date till the date of payment of the said amount.</p> <p><i>Explanation.</i>—For the purpose of this sub-rule, “due date” means the 5th day of the month following the month in which goods have been cleared from the factory.’</p>	1st day of March, 2002 to the 9th day of September, 2004 (both days inclusive).

## THE EIGHTH SCHEDULE

[See section 73(1)]

Sl. No.	Provisions of CENVAT Credit Rules, 2004 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 6 of the CENVAT Credit Rules, 2004 as published <i>vide</i> notification number G.S.R. 600(E), dated the 10th September, 2004 [23/2004-CENTRAL EXCISE (N.T.), dated the 10th September, 2004].	<p>In the CENVAT Credit Rules, 2004, in rule 6, after sub-rule (6), the following sub-rule shall be inserted, namely:—</p> <p>‘(7) Where a dispute relating to adjustment of credit on inputs or input services used in or in relation to exempted final products relating to the period beginning on the 10th day of September, 2004 and ending with the 31st day of March, 2008 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2), and clauses (a) and (b) of sub-rule (3), a manufacturer availing CENVAT credit in respect of any inputs or input services and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs or input services used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the due date till the date of payment of the said amount.</p> <p><i>Explanation.</i>—For the purpose of this sub-rule, “due date” means the 5th day of the month following the month in which goods have been cleared from the factory.’</p>	10th day of September, 2004 to the 31st day of March, 2008 (both days inclusive).

## THE NINTH SCHEDULE

(See section 75)

In the First Schedule to the Central Excise Tariff Act, —

(1) in Chapter 24,—

(i) for the entry in column (4) occurring against all tariff items of heading 2401, the entry "50%" shall be substituted;

(ii) in tariff items 2402 10 10 and 2402 10 20, for the entry in column (4), the entry "10% or Rs. 1227 per thousand, whichever is higher" shall be substituted;

(iii) in tariff item 2402 20 10, for the entry in column (4), the entry "Rs. 509 per thousand" shall be substituted;

(iv) in tariff item 2402 20 20, for the entry in column (4), the entry "Rs. 1218 per thousand" shall be substituted;

(v) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 30, the entries "---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 60 millimetres" and "Rs. 509 per thousand" shall respectively be substituted;

(vi) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 40, the entries "---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 60 millimetres but not exceeding 70 millimetres" and "Rs. 809 per thousand" shall respectively be substituted;

(vii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 50, the entries "---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres" and "Rs. 1218 per thousand" shall respectively be substituted;

(viii) after tariff item 2402 20 50 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
"2402 20 60	--- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	Rs.1624 per thousand";

(ix) in tariff item 2402 20 90, for the entry in column (4), the entry "Rs. 1948 per thousand" shall be substituted;

(x) in tariff item 2402 90 10, for the entry in column (4), the entry "Rs. 1258 per thousand" shall be substituted;

(xi) in tariff item 2402 90 20, for the entry in column (4), the entry "10% or Rs. 1473 per thousand, whichever is higher" shall be substituted;

(xii) in tariff item 2402 90 90, for the entry in column (4), the entry "10% or Rs. 1473 per thousand, whichever is higher" shall be substituted;

(xiii) in tariff item 2403 10 10, for the entry in column (4), the entry "60%" shall be substituted;

(xiv) in tariff item 2403 10 20, for the entry in column (4), the entry "360%" shall be substituted;

(xv) in tariff item 2403 10 90, for the entry in column (4), the entry "40%" shall be substituted;

(xvi) in tariff item 2403 91 00, for the entry in column (4), the entry "60%" shall be substituted;

(xvii) in tariff items 2403 99 10, 2403 99 20, 2403 99 30, 2403 99 40, 2403 99 50 and 2403 99 60, for the entry in column (4) occurring against each of them, the entry "60%" shall be substituted;

(xviii) in tariff item 2403 99 70, for the entry in column (4), the entry "Rs. 60 per kg." shall be substituted;

(xix) in tariff item 2403 99 90, for the entry in column (4), the entry "60%" shall be substituted;

(2) in Chapter 27,—

(a) for sub-heading 2712 20 and tariff items 2712 20 10 and 2712 20 90 and the entries relating thereto, the following tariff item and entries shall be substituted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
"2712 20 00	- Paraffin wax containing by weight less than 0.75% of oil	kg.	16%";

(b) after tariff item 2712 90 30 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
"2712 90 40	--- Paraffin wax containing by weight 0.75% or more of oil	kg.	16%";

(3) in Chapter 48, in heading 4818,—

(i) in tariff item 4818 40 10, for the entry in column (4), the entry "16%" shall be substituted;

(ii) in tariff item 4818 40 90, for the entry in column (4), the entry "16%" shall be substituted;

(4) in Chapter 50, for the entry in column (4) occurring against all the tariff items of headings 5004, 5005, 5006 and 5007, the entry "10%" shall be substituted;

(5) in Chapter 51, for the entry in column (4) occurring against all the tariff items of headings 5105, 5106, 5107, 5108, 5109, 5110, 5111, 5112 and 5113, the entry "10%" shall be substituted;

(6) in Chapter 52, for the entry in column (4) occurring against all the tariff items of headings 5204, 5205, 5206, 5207, 5208, 5209, 5210, 5211 and 5212, the entry "10%" shall be substituted;

(7) in Chapter 53, for the entry in column (4) occurring against all the tariff items of headings 5302, 5305, 5306, 5308 (except 5308 10 10 and 5308 10 90), 5309, 5310 and 5311, the entry "10%" shall be substituted;

(8) in Chapter 54, for the entry in column (4) occurring against all the tariff items of headings 5401, 5404 (except 5404 11 00, 5404 12 00, 5404 19 10, 5404 19 20 and 5404 19 90), 5405, 5407 (except 5407 10 15, 5407 10 25, 5407 10 35, 5407 10 45, 5407 10 95, 5407 20 10, 5407 20 20, 5407 20 30, 5407 20 40, 5407 20 90, 5407 30 10, 5407 30 20, 5407 30 30, 5407 30 40, 5407 30 90, 5407 41 19, 5407 41 29, 5407 42 90, 5407 43 00, 5407 44 90, 5407 71 10, 5407 71 20, 5407 72 00, 5407 73 00, 5407 74 00, 5407 81 19, 5407 81 29, 5407 82 90, 5407 83 00, 5407 84 90, 5407 91 10, 5407 91 20, 5407 92 00, 5407 93 00 and 5407 94 00) and 5408, the entry "10%" shall be substituted;

(9) in Chapter 55, for the entry in column (4) occurring against all the tariff items of headings 5508, 5509, 5510, 5511, 5512, 5513, 5514, 5515 and 5516, the entry "10%" shall be substituted;

(10) in Chapter 56, for the entry in column (4) occurring against all the tariff items of headings 5601 (except 5601 10 00 and 5601 22 00), 5602, 5603, 5604, 5605, 5606, 5607 (except 5607 50 10), 5608 (except 5608 11 10 and 5608 11 90) and 5609, the entry "10%" shall be substituted;

(11) in Chapter 57, for the entry in column (4) occurring against all the tariff items of headings 5701, 5702, 5703, 5704 and 5705, the entry "10%" shall be substituted;

(12) in Chapter 58, for the entry in column (4) occurring against all the tariff items of headings 5801 (except 5801 35 00), 5802, 5803, 5804 (except 5804 30 00), 5806, 5808, 5809, 5810 and 5811, the entry "10%" shall be substituted;

(13) in Chapter 59, for the entry in column (4) occurring against all the tariff items of headings 5901, 5902 (except 5902 10 10 and 5902 10 90), 5903, 5904, 5905, 5906, 5907, 5908, 5909, 5910 and 5911, the entry "10%" shall be substituted;

(14) in Chapter 60, for the entry in column (4) occurring against all the tariff items of headings 6001, 6002, 6003, 6004, 6005 and 6006, the entry "10%" shall be substituted;

(15) in Chapter 61, for the entry in column (4) occurring against all the tariff items of headings 6101, 6102, 6103, 6104, 6105, 6106, 6107, 6108, 6109, 6110, 6111, 6112, 6113, 6114, 6115, 6116 and 6117, the entry "10%" shall be substituted;

(16) in Chapter 62, for the entry in column (4) occurring against all the tariff items of headings 6201, 6202, 6203, 6204, 6205, 6206, 6207, 6208, 6209, 6210, 6211, 6212, 6213, 6214, 6215, 6216 and 6217, the entry "10%" shall be substituted;

(17) in Chapter 63, for the entry in column (4) occurring against all the tariff items of headings 6301, 6302, 6303, 6304, 6305, 6306, 6307 and 6308, the entry "10%" shall be substituted;

(18) in Chapter 68, after NOTE 2, the following NOTE shall be inserted, namely:—

'3. In relation to products of headings 6802 and 6810, the process of cutting or sawing or sizing or polishing or any other process, for converting of stone blocks into slabs or tiles, shall amount to "manufacture".';

(19) in Chapter 76,—

(i) "NOTE" shall be numbered as "NOTE 1" thereof and after NOTE 1 as so numbered, the following NOTE shall be inserted, namely:—

'2. In relation to products of heading 7608, the process of drawing or redrawing shall amount to "manufacture".';

(ii) in sub-heading Note 2, for the word "Note", the word and figure "Note 1" shall be substituted;

(20) in Chapter 90, in tariff item 9001 30 00, for the entry in column (4), the entry "10%" shall be substituted;

(21) in Chapter 95, in tariff item 9504 40 00, for the entry in column (4), the entry "10%" shall be substituted.

## THE TENTH SCHEDULE

[See section 83(3) and (5)]

## NOTES:

1. In this Schedule, "Chapter", "heading", "sub-heading" and "tariff item" mean respectively a Chapter, heading, sub-heading and tariff item of the First Schedule to the Central Excise Tariff Act.

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, the Section and Chapter Notes and the General Rules for the Interpretation of the First Schedule shall apply to the interpretation of this Schedule.

Sl. No.	Chapter, heading, sub-heading or tariff item	Description of goods	Rate
(1)	(2)	(3)	(4)
1.	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	Rs. 100 per tonne
2.	2702	Lignite, whether or not agglomerated, excluding jet	Rs. 100 per tonne
3.	2703	Peat (including peat litter), whether or not agglomerated	Rs. 100 per tonne.

## THE ELEVENTH SCHEDULE

(See section 86)

In the Seventh Schedule to the Finance Act, 2001,—

(i) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 30, the entries "—Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 60 millimetres" and "Rs. 90 per thousand" shall respectively be substituted;

(ii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 40, the entries "—Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 60 millimetres but not exceeding 70 millimetres" and "Rs. 90 per thousand" shall respectively be substituted;

(iii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 50, the entries "—Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres" and "Rs. 145 per thousand" shall respectively be substituted;

(iv) after tariff item 2402 20 50 and the entries relating thereto, the following tariff item and the entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
"2402 20 60	--- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	Rs. 190 per thousand".

## THE TWELFTH SCHEDULE

(See section 87)

In the Seventh Schedule to the Finance Act, 2005,—

(i) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 30, the entries “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 60 millimetres” and “Rs. 70 per thousand” shall respectively be substituted;

(ii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 40, the entries “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 60 millimetres but not exceeding 70 millimetres” and “Rs. 70 per thousand” shall respectively be substituted;

(iii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 50, the entries “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres” and “Rs. 110 per thousand” shall respectively be substituted;

(iv) after tariff item 2402 20 50 and the entries relating thereto, the following tariff item and the entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
“2402 20 60	--- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	Rs.145 per thousand”.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 18th May 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 17th May 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 2010  
(Act No. 15 of 2010)

*An Act further to amend the Payment of Gratuity Act, 1972.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2010.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In section 4 of the Payment of Gratuity Act, 1972, in sub-section (3), for the words "three lakhs and fifty thousand rupees", the words "ten lakh rupees" shall be substituted.

Short title and  
commencement.

Amendment  
of section 4  
of Act 39 of  
1972.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 18th May 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 18th May 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

THE PLANTATIONS LABOUR (AMENDMENT) ACT, 2010  
(Act No. 17 of 2010)

*An Act further to amend the Plantations Labour Act, 1951.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Plantations Labour (Amendment) Act, 2010.

Short title  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall, in relation to any State, be construed as a reference to the coming into force of that provision in that State.

69 of 1951.

2. In section 2 of the Plantations Labour Act, 1951 (hereinafter referred to as the principal Act),—

Amendment  
of section 2.

(a) in clause (e), the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of this clause, “the person who has the ultimate control over the affairs of the plantation” means in the case of a plantation owned or controlled by—

(i) a company, firm or other association of individuals, whether incorporated or not, every director, partner or individual;



(ii) the Central Government or State Government or any local authority, the person or persons appointed to manage the affairs of the plantation; and

(iii) a lessee, the lessee;';

(b) in clause (ee), for the words "and includes, where the worker is a male, his parents dependent upon him", the words "and includes parents and widow sister, dependent upon him or her" shall be substituted;

(c) in clause (k),—

(i) in the opening portion, after the words "manual or clerical", the words "and includes a person employed on contract for more than sixty days in a year" shall be inserted;

(ii) in sub-clause (ii), for the words "rupees seven hundred and fifty", the words "rupees ten thousand" shall be substituted;

(iii) in sub-clause (iii), for the words "managerial capacity, notwithstanding that his monthly wages do not exceed rupees seven hundred and fifty", the words "managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand" shall be substituted.

Amendment  
of section 7.

3. In section 7 of the principal Act, in sub-section (2), in clause (b), for the words "and children are, or are to be", the word "are" shall be substituted.

Amendment of  
section 10.

4. In section 10 of the principal Act, in sub-section (2), for the words "chief inspector", the words "State Government upon a request by the chief inspector" shall be substituted.

Insertion of  
new Chapter  
IVA.

5. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

#### "CHAPTER IVA

##### PROVISIONS AS TO SAFETY

Safety.

18A. (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.

(2) The State Government may make rules for prohibiting or, restricting employment of women or adolescents in using or handling hazardous chemicals.

(3) The employer shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(5) Every worker who is exposed to insecticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed, by the State Government.

(6) Every employer shall maintain health record of every worker who is exposed to insecticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(7) Every employer shall provide—

(a) washing, bathing and cloak room facilities; and

(b) protective clothing and equipment,

to every worker engaged in handling insecticides, chemicals or toxic substances in such manner as may be prescribed by the State Government.

(8) Every employer shall display in the plantation a list of permissible concentrations of insecticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of such insecticides, chemicals and toxic substances.

(9) Every employer shall exhibit such precautionary notices as may be prescribed by the State Government indicating the hazards of insecticides, chemicals and toxic substances.

18B. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the restriction on employment of women and adolescents for handling hazardous chemicals under sub-section (2) of section 18A;

(b) the qualifications of supervisor appointed under sub-section (3) of section 18A;

(c) the matters for training of workers under sub-section (4) of section 18A;

(d) the medical examination of workers under sub-section (5) of section 18A;

(e) the facilities and equipment to be provided to the workers engaged in handling insecticides, chemicals and toxic substances under sub-section (7) of section 18A;

(f) the precautionary notices to be exhibited under sub-section (9) of section 18A.”

6. In section 19 of the principal Act, in sub-section (1), the words “or child” shall be omitted.

Amendment of section 19.

7. After section 23 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 24.

“24. No child shall be employed to work in any plantation.”.

Prohibition of employment of Children.

8. In section 25 of the principal Act,—

Amendment of section 25.

(a) the words “or child” shall be omitted;

(b) in the marginal heading, the words “and children” shall be omitted.

9. In section 26 of the principal Act,—

Amendment of section 26.

(a) in the opening portion, the words “child and no” shall be omitted;

(b) in clause (b), the words “child or” shall be omitted.

10. In section 27 of the principal Act, in sub-section (1), the words “either as a child or” shall be omitted.

Amendment of section 27.

Insertion of  
new section  
32C.

11. After section 32B of the principal Act, the following section shall be inserted, namely:—

Compensation.

“32C. The employer shall give compensation to a worker in plantation in case of accident and the memorandum relating to such compensation shall be got registered by the employer with the Commissioner in accordance with the provisions of the Workmen's Compensation Act, 1923.”

8 of 1923.

Amendment  
of sections  
33, 35 and  
36.

12. In sections 33, 35 and 36 of the principal Act, for the words “three months, or with fine which may extend to five hundred rupees, or with both”, wherever they occur, the words “six months, or with fine which may extend to ten thousand rupees, or with both” shall be substituted.

Amendment  
of section 34.

13. In section 34 of the principal Act, for the words “one month, or with fine which may extend to fifty rupees, or with both,” the words “two months, or with fine which may extend to one thousand rupees, or with both” shall be substituted.

Amendment  
of section 37.

14. In section 37 of the principal Act, for the words “six months, or with fine which may extend to one thousand rupees, or with both”, the words “one year, or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both” shall be substituted.

Substitution  
of new  
sections for  
section 39.

15. For section 39 of the principal Act, the following sections shall be substituted, namely:—

Cognizance  
of offences.

“39. No court shall take cognizance of any offence under this Act except on a complaint made by any worker or an office bearer of a trade union of which such worker is a member or an inspector and no court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

Protection of  
action taken  
in good faith.

39A. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.”

Amendment  
of section 43.

16. In section 43 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made by the State Government under this Act shall, as soon as may be after it is made, be laid before the State Legislature.”

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 25th May 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 24th May 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

THE EMPLOYEES' STATE INSURANCE (AMENDMENT) ACT, 2010  
(Act No. 18 of 2010)

*An Act further to amend the Employees' State Insurance Act, 1948.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Employees' State Insurance (Amendment) Act, 2010.

Short title and  
commencement.

(2) Section 18 shall be deemed to have come into force on the 3rd day of July, 2008 and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 1948.

2. In the Employees' State Insurance Act, 1948 (hereinafter referred to as the principal Act), in section 1, in sub-section (5), for the words "six months", the words "one month's" shall be substituted.

Amendment  
of section 1.

Amendment  
of section 2.

3. In section 2 of the principal Act, —

(A) in clause (6A),—

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:—

"(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter,";

(b) in sub-clause (ii), for the words "eighteen years", the words "twenty-five years" shall be substituted;

(B) in clause (9), for the words "or under the standing orders of the establishment," the words "and includes such person engaged as apprentice whose training period is extended to any length of time" shall be substituted;

(C) in clause (11), for sub-clause (v), the following sub-clauses shall be substituted, namely:—

"(v) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(vi) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;"

(D) for clause (12), the following clause shall be substituted, namely:—

"(12) "factory" means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed;"

35 of 1952.

Amendment  
of section 10.

4. In section 10 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) the Director General, the Employees' State Insurance Corporation, *ex officio* as Chairman;

(b) the Director General, Health Services, *ex officio* as Co-chairman;"

Amendment  
of section 12.

5. In section 12 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) A person referred to in clause (i) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament."

Amendment  
of section 17.

6. In section 17 of the principal Act, in sub-section (2), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis."

Amendment  
of section 37.

7. In section 37 of the principal Act, for the words "five years", the words "three years" shall be substituted.

Amendment  
of section 45.

8. In section 45 of the principal Act,—

(a) for the words "Inspectors" and "Inspector", wherever they occur, the words "Social Security Officers" and "Social Security Officer" shall respectively be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Any officer of the Corporation authorised in this behalf by it may, carry out re-inspection or test inspection of the records and returns submitted under section 44 for the purpose of verifying the correctness and quality of the inspection carried out by a Social Security Officer.”.

9. In section 45A of the principal Act, in sub-section (1),—

Amendment  
of section  
45A.

(i) for the word “Inspector”, the words “Social Security Officer” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable.”.

10. After section 45A of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
45AA.

“45AA. If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Appellate  
authority.

Provided that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.”.

11. In the principal Act, in sections 51A and 51B, for the words “an insured person's”, the words “an employee's” shall be substituted.

Amendment  
of sections  
51A and 51B.

12. In the principal Act, in sections 51C and 51D, for the words “insured person”, the word “employee” shall be substituted.

Amendment  
of sections  
51C and 51D.

13. After section 51D of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
51E.

“51E. An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.”.

Accidents  
happening  
while  
commuting to  
the place of  
work and vice  
versa.

14. In section 56 of the principal Act, in sub-section (3), for the third proviso, the following proviso shall be substituted, namely:—

Amendment  
of section 56.

“Provided also that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government.”.

15. In section 58 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

Amendment  
of section 58.

“(5) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Provided that any reference to the State Government in the Act shall also include reference to the organisation as and when such organisation is established by the State Government.

(6) The organisation referred to in sub-section (5) shall have such structure and discharge functions, exercise powers and undertake such activities as may be prescribed."

Amendment of section 59. 16. In section 59 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families."

Insertion of new section 59B. 17. After section 59A of the principal Act, the following section shall be inserted, namely:—

Medical and para-medical education.

"59B. The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employees' State Insurance Scheme."

Substitution of new Chapter for Chapter VA. 18. For Chapter VA of the principal Act, the following Chapter shall be substituted, namely:—

#### 'CHAPTER VA

##### SCHEME FOR OTHER BENEFICIARIES

Definitions. 73A. In this Chapter,—

(a) "other beneficiaries" means persons other than the person insured under this Act;

(b) "Scheme" means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;

(c) "underutilised hospital" means any hospital not fully utilised by the persons insured under this Act;

(d) "user charges" means the amount which is to be charged from the other beneficiaries for medical facilities as may be notified by the Corporation in consultation with the Central Government from time to time.

Power to frame Schemes.

73B. Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, frame Scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges.

Collection of user charges.

73C. The user charges collected from the other beneficiaries shall be deemed to be the contribution and shall form part of the Employees' State Insurance Fund.

Scheme for other beneficiaries.

73D. The Scheme may provide for all or any of the following matters, namely:—

(i) the other beneficiaries who may be covered under this Scheme;

(ii) the time and manner in which the medical facilities may be availed by the other beneficiaries;

(iii) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;

(iv) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

73E. The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind the Scheme.

Power to  
amend  
Scheme.

73F. Every Scheme framed under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.'

Laying of  
Scheme  
framed under  
this Chapter.

19. All things done, or, omitted to be done, and all actions or measures taken or not taken during the period beginning on or after the 3rd day of July, 2008 and ending immediately before the date of commencement of the Employees' State Insurance (Amendment) Act, 2010, shall in so far as they are in conformity with the provisions of this Act, as amended by the Employees' State Insurance (Amendment) Act, 2010, be deemed to have been done, or taken, or not taken, under the provisions of this Act, as amended by the Employees' State Insurance (Amendment) Act, 2010, as if such provisions were in force at the time such things were done or omitted to be done and actions or measures taken or not taken during the said period.

Validation.

20. In section 87 of the principal Act, the following provisos shall be inserted at the end, namely:—

Amendment  
of section 87.

"Provided that such exemptions may be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act:

Provided further that an application for renewal shall be made three months before the date of expiry of the exemption period and a decision on the same shall be taken by the appropriate Government within two months of receipt of such application."

21. In section 91A of the principal Act, for the words "either prospectively or retrospectively", the word "prospectively" shall be substituted.

Amendment  
of section  
91A.

22. After section 91A of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
91AA.

"91AA. Notwithstanding anything contained in this Act, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government."

Central  
Government  
to be  
appropriate  
Government.

23. In section 95 of the principal Act, in sub-section (2),—

Amendment  
of section 95.

(i) after clause (ef), the following clause shall be inserted, namely:—

"(eff) the income of dependant parents from all sources;"

(ii) after clause (eh), the following clause shall be inserted, namely:—

"(ehh) the conditions under which the medical benefits shall be payable to the insured person and spouse of an insured person who has attained the age of



superannuation, the person who retires under Voluntary Retirement Scheme and the person who takes pre-mature retirement;".

Amendment  
of section 96.

24. In section 96 of the principal Act, in sub-section (1), after clause (e), the following clause shall be inserted, namely: —

“(ee) the organisational structure, functions, powers, activities and other matters for the establishment of the organisation;”.

Amendment  
of section 97.

25. In section 97 of the principal Act, in sub-section (2), —

(i) in clause (xx), for the word "Inspectors", the words "Social Security Officers" shall be substituted;

(ii) after clause (xx), the following clause shall be inserted, namely:—

"(xxa) the constitution of the appellate authority and the interest on amount deposited by the employer with the Corporation."

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Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 2nd June 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 2nd June 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

### THE NATIONAL GREEN TRIBUNAL ACT, 2010

(Act No. 19 of 2010)

*An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.*

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

AND WHEREAS decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conferences and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows: —

## CHAPTER I

### PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the National Green Tribunal Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “accident” means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure to death, of, or, injury to, any person or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;

(b) “Chairperson” means the Chairperson of the National Green Tribunal;

(c) “environment” includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(d) “Expert Member” means a member of the Tribunal who, is appointed as such, and holds qualifications specified in sub-section (2) of section 5, and, is not a Judicial Member;

(e) “handling”, in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(f) “hazardous substance” means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991;

29 of 1986.

6 of 1991.

(g) “injury” includes permanent, partial or total disablement or sickness resulting out of an accident;

(h) “Judicial Member” means a member of the Tribunal who is qualified to be appointed as such under sub-section (1) of section 5 and includes the Chairperson;

(i) “notification” means a notification published in the Official Gazette;

(j) “person” includes—

(i) an individual,

(ii) a Hindu undivided family,

- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) trustee of a trust,
- (vii) a local authority, and
- (viii) every artificial juridical person, not falling within any of the preceding sub-clauses;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Schedule" means Schedules I, II and III appended to this Act;
- (m) "substantial question relating to environment" shall include an instance where,—

(i) there is a direct violation of a specific statutory environmental obligation by a person by which,—

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

(n) "Tribunal" means the National Green Tribunal established under section 3;

(o) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923.

8 of 1923.

6 of 1974.

36 of 1977.

69 of 1980.

14 of 1981.

29 of 1986.

6 of 1991.

18 of 2003.

(2) The words and expressions used in this Act but not defined herein and defined in the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002 and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

## CHAPTER II

### ESTABLISHMENT OF THE TRIBUNAL

3. The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

Establishment of Tribunal.

4. (1) The Tribunal shall consist of—

Composition of Tribunal.

(a) a full time Chairperson;

(b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including—

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals:

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

Qualifications  
for  
appointment  
of  
Chairperson,  
Judicial  
Member and  
Expert  
Member.

5. (1) A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court:

Provided that a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial Member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he,—

(a) has a degree in Master of Science (in physical sciences or life sciences) with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management, biological diversity management and forest conservation) in a reputed National level institution; or

(b) has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956.

1 of 1956.

Appointment  
of  
Chairperson,  
Judicial  
Member and  
Expert  
Member.

6. (1) Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

7. The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years:

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no Expert Member shall hold office after he has attained the age of sixty-five years.

8. The Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

10. (1) The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

(5) The Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) and in accordance with the procedure as may be notified by the Central Government:

Provided that the Expert Member shall not be removed unless he has been given an opportunity of being heard in the matter.

11. In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, by notification, authorise in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.

Term of office and other conditions of service of Chairperson, Judicial Member and Expert Member.

Resignation.

Salaries, allowances and other terms and conditions of service.

Removal and suspension of Chairperson, Judicial Member and Expert Member.

To act as Chairperson of Tribunal or to discharge his functions in certain circumstances.

Staff of  
Tribunal.

12. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions.

(2) The recruitment of the officers and other employees of the Tribunal shall be made by the Chairperson in such manner as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

Financial and  
administrative  
powers of  
Chairperson.

13. The Chairperson of the Tribunal shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Chairperson may delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Chairperson.

### CHAPTER III

#### JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

Tribunal to  
settle disputes.

14. (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

Relief,  
compensation  
and  
restitution.

15. (1) The Tribunal may, by an order, provide,—

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas,

as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991.

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

16. Any person aggrieved by,—

Tribunal to have appellate jurisdiction.

- 6 of 1974. (a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974;
- 6 of 1974. (b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974;
- 6 of 1974. (c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974;
- 36 of 1977. (d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977;
- 69 of 1980. (e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980;
- 14 of 1981. (f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981;
- 29 of 1986. (g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986;
- 29 of 1986. (h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986;
- 29 of 1986. (i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986;
- 18 of 2003. (j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002,

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

17. (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.

Liability to pay relief or compensation in certain cases.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be



attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.

(3) The Tribunal shall, in case of an accident, apply the principle of no fault.

Application  
or appeal to  
Tribunal.

18. (1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by—

(a) the person, who has sustained the injury; or

(b) the owner of the property to which the damage has been caused; or

(c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or

(d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or

(e) any person aggrieved, including any representative body or organisation; or

(f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 or any other law for the time being in force:

29 of 1986.

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organisation shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organisation have preferred an appeal under section 16.

(3) The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

Procedure and  
powers of  
Tribunal.

19. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

5 of 1908.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

1 of 1872.

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

	<p>(b) requiring the discovery and production of documents;</p> <p>(c) receiving evidence on affidavits;</p> <p>(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;</p> <p>(e) issuing commissions for the examination of witnesses or documents;</p> <p>(f) reviewing its decision;</p> <p>(g) dismissing an application for default or deciding it <i>ex parte</i>;</p> <p>(h) setting aside any order of dismissal of any application for default or any order passed by it <i>ex parte</i>;</p> <p>(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;</p> <p>(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;</p> <p>(k) any other matter which may be prescribed.</p>	
1 of 1872.		
45 of 1860. 2 of 1974.	<p>(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.</p> <p>20. The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.</p> <p>21. The decision of the Tribunal by majority of Members shall be binding:</p> <p>Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier such application or appeal) such application or appeal and decide:</p> <p>Provided further that where the Chairperson himself has heard such application or appeal alongwith other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally divided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide.</p>	<p>Tribunal to apply certain principles.</p> <p>Decision to be taken by majority.</p>
5 of 1908.	<p>22. Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:</p> <p>Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.</p>	<p>Appeal to Supreme Court.</p>
	<p>23. (1) While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.</p> <p>(2) Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.</p>	<p>Cost.</p>
6 of 1991.	<p>24. (1) Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 for being credited to the Environmental Relief Fund established under that section.</p>	<p>Deposit of amount payable for damage to environment.</p>

(2) The amount of compensation or relief credited to the Environmental Relief Fund under sub-section (1), may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed. 6 of 1991.

Execution of award or order or decision of Tribunal.

25. (1) An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

#### CHAPTER IV

##### PENALTY

Penalty for failure to comply with orders of Tribunal.

26. (1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code. 2 of 1974.

Offences by companies.

27. (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

28. (1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Offences by Government Department.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## CHAPTER V

### MISCELLANEOUS

29. (1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

Bar of Jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court.

30. (1) No court shall take cognizance of any offence under this Act except on a complaint made by—

Cognizance of offences.

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

31. The Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members and staff of Tribunal to be public servants.

32. (1) No suit or other legal proceeding shall lie against the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of action taken in good faith.

(2) No suit, prosecution or other legal proceeding shall lie against the Chairperson or, Judicial Member or Expert Member of the Tribunal or any other person authorised by the Chairperson or Judicial Member or the Expert Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

33. The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

34. (1) The Central Government may, by notification, amend the Schedule I by including therein any other Act, enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources, or omitting therefrom any Act already specified therein and on the date of publication of such notification, such Act shall be deemed to be included in or, as the case may be, omitted from the Schedule I.

Power to amend Schedule I.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power to  
make rules.

35. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4;

(b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) of section 4;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals under clause (c) of sub-section (4) of section 4;

(d) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(e) the selection committee and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6;

(f) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(g) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10;

(h) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section;

(i) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 13;

(j) the form of application or appeal, the particulars which it shall contain and the documents to be accompanied by and the fees payable under sub-section (1) of section 18;

(k) any such matter in respect of which the Tribunal shall have powers of a civil court under clause (k) of sub-section (4) of section 19;

(l) the manner and the purposes for which the amount of compensation or relief credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 24;

(m) the manner of giving notice to make a complaint under clause (b) of sub-section (1) of section 30;

(n) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. The enactments specified in the Schedule III to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Tribunal. Amendment of certain enactments.

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

27 of 1995. 22 of 1997. 38. (1) The National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 are hereby repealed (hereinafter referred to as the repealed Act). Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

22 of 1997. (3) The National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, stand dissolved.

22 of 1997. (4) On the dissolution of the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, the persons appointed as the Chairperson, Vice-chairperson and every other person appointed as Member of the said National Environment Appellate Authority and holding office as such immediately before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall vacate their respective offices and no such Chairperson, Vice-chairperson and every other person appointed as Member shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

22 of 1997. (5) All cases pending before the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall, on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under that Act.

(6) The officers or other employees who have been, immediately before the dissolution of the National Environment Appellate Authority appointed on deputation basis to the National Environment Appellate Authority, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be.

(7) On the dissolution of the National Environment Appellate Authority, the officers and other employees appointed on contract basis under the National Environment Appellate Authority and holding office as such immediately before such dissolution, shall vacate their respective offices and such officers and other employees shall be entitled to claim compensation for three months' pay and allowances or pay and allowances for the

remaining period of service, whichever is less, for the premature termination of term of their office under their contract of service.

(8) The mention of the particular matters referred to in sub-sections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

#### SCHEDULE I

[See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4) (j) and 34(1)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

#### SCHEDULE II

[See sections 15(4) and 17(1)]

HEADS UNDER WHICH COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED

- (a) Death;
- (b) Permanent, temporary, total or partial disability or other injury or sickness;
- (c) Loss of wages due to total or partial disability or permanent or temporary disability;
- (d) Medical expenses incurred for treatment of injuries or sickness;
- (e) Damages to private property;
- (f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;
- (g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;
- (h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;
- (i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;
- (j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;
- (k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;
- (l) Loss and destruction of any property other than private property;
- (m) Loss of business or employment or both;
- (n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

SCHEDULE III  
(See section 36)

AMENDMENT TO CERTAIN ENACTMENTS

PART I

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974  
(6 OF 1974)

After section 33A, the following section shall be inserted, namely:—

Insertion of  
new section  
33B.

“33B. Any person aggrieved by,—

Appeal to  
National Green  
Tribunal.

(a) an order or decision of the appellate authority under section 28,  
made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under section 29, on or after  
the commencement of the National Green Tribunal Act, 2010; or

(c) directions issued under section 33A by a Board, on or after the  
commencement of the National Green Tribunal Act, 2010,

may file an appeal to the National Green Tribunal established under section 3 of the  
National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

PART II

AMENDMENTS TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977  
(36 OF 1977)

1. In section 13, in sub-section (4), for the words “shall be final”, the words, figures and  
letters “shall, if no appeal has been filed under section 13A, be final” shall be substituted.

Amendment of  
section 13.

2. After section 13, the following section shall be inserted, namely:—

Insertion of  
new section  
13A.

“13A. Any person aggrieved, by an order or decision of the appellate authority  
made under section 13, on or after the commencement of the National Green Tribunal  
Act, 2010, may file an appeal to the National Green Tribunal established under section 3  
of the National Green Tribunal Act, 2010, in accordance with the provisions of that  
Act.”

Appeal to  
National  
Green  
Tribunal.

PART III

AMENDMENT TO THE FOREST (CONSERVATION) ACT, 1980  
(69 OF 1980)

After section 2, the following section shall be inserted, namely:—

Insertion of  
new section  
2A.

“2A. Any person aggrieved, by an order or decision of the State Government or  
other authority made under section 2, on or after the commencement of the National  
Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established  
under section 3 of the National Green Tribunal Act, 2010, in accordance with the  
provisions of that Act.”

Appeal to  
National  
Green  
Tribunal.



## PART IV

## AMENDMENT TO THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

(14 OF 1981)

Insertion of  
new section  
31B.

After section 31A, the following section shall be inserted, namely:—

Appeal to  
National  
Green  
Tribunal.

“31B. Any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

## PART V

## AMENDMENT TO THE ENVIRONMENT (PROTECTION) ACT, 1986

(29 OF 1986)

Insertion of  
new section  
5A.

After section 5, the following section shall be inserted, namely:—

Appeal to  
National Green  
Tribunal.

“5A. Any person aggrieved by any directions issued under section 5, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

## PART VI

## AMENDMENTS TO THE BIOLOGICAL DIVERSITY ACT, 2002

(18 OF 2003)

Amendment  
of section 52.

1. In section 52, after the proviso, the following provisos shall be inserted, namely:—

“Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010:

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2010.”.

Insertion of  
new section  
52A.

2. After section 52, the following section shall be inserted, namely:—

Appeal to  
National Green  
Tribunal.

“52A. Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 16th August 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 16th August 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL  
INSTITUTIONS (AMENDMENT) ACT, 2010

(Act No. 20 of 2010)

*An Act further to amend the National Commission for Minority Educational Institutions  
Act, 2004.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the National Commission for Minority Educational Institutions (Amendment) Act, 2010.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of  
section 2.

2. In section 2 of the National Commission for Minority Educational Institutions Act, 2004 (hereinafter referred to as the principal Act),—

(i) clause (b) shall be omitted;

(ii) for clause (g), the following clause shall be substituted, namely:—

'(g) "Minority Educational Institution" means a college or an educational institution established and administered by a minority or minorities;'

Amendment of  
section 3.

3. In section 3 of the principal Act, in sub-section (2), for the words "two members", the words "three members" shall be substituted.

Amendment of  
section 10.

4. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose."

Amendment of  
section 12B.

5. In section 12B of the principal Act, in sub-section (4), the words "and in consultation with the State Government" shall be omitted.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 19th August 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 18th August.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

THE CLINICAL ESTABLISHMENT (REGISTRATION AND REGULATION) ACT, 2010

(Act No. 23 of 2010)

*An Act to provide for the registration and regulation of clinical establishments in the country  
and for matters connected therewith or incidental thereto.*

WHEREAS, it is considered expedient to provide for the registration and regulation of clinical establishments with a view to prescribe minimum standards of facilities and services which may be provided by them so that mandate of article 47 of the Constitution for improvement in public health may be achieved;

AND WHEREAS, Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS, in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title,  
application  
and  
commencement.

1. (1) This Act may be called the Clinical Establishments (Registration and Regulation) Act, 2010.

(2) It applies, in the first instance, to the whole of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force at once in the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and the Union territories, on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory:

Provided that different dates may be appointed for different categories of clinical establishments and for different recognised systems of medicine.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "authority" means the district registering authority set-up under section 10;
- (b) "certificate" means certificate of registration issued under section 30;
- (c) "clinical establishment" means—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not,

and shall include a clinical establishment owned, controlled or managed by—

- (a) the Government or a department of the Government;
- (b) a trust, whether public or private;
- (c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;
- (d) a local authority; and
- (e) a single doctor,

but does not include the clinical establishments owned, controlled or managed by the Armed Forces.

*Explanation.*—For the purpose of this clause "Armed Forces" means the forces constituted under the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957;

46 of 1950.  
45 of 1950.  
62 of 1957.

(d) "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) of such a nature that the absence of immediate medical attention could reasonably be expected to result in—

(i) placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy; or

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any organ or part of a body;

(e) "National Council" means the National Council for clinical establishments established under section 3;

(f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(h) "recognised system of medicine" means Allopathy, Yoga, Naturopathy, Ayurveda, Homoeopathy, Siddha and Unani System of medicines or any other system of medicine as may be recognised by the Central Government;

(i) "register" means the register maintained by the authority, State Government and the Central Government under sections 37, 38 and 39 respectively of this Act containing the number of clinical establishments registered;

(j) "registration" means to register under section 11 and the expression registration or registered shall be construed accordingly;

(k) "rules" means rules made under this Act;

(l) "Schedule" means the Schedule appended to this Act;

(m) "standards" means the conditions that the Central Government may prescribe under section 12, for the registration of clinical establishments;

(n) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution; and

(o) "to stabilise (with its grammatical variations and cognate expressions)" means, with respect to an emergency medical condition specified in clause (d); to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a clinical establishment.

## CHAPTER II

### THE NATIONAL COUNCIL FOR CLINICAL ESTABLISHMENTS

3. (1) With effect from such date as the Central Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, a Council to be called the National Council for clinical establishments.

Establishment  
of National  
Council.

(2) The National Council shall consist of—

(a) Director-General of Health Service, Ministry of Health and Family Welfare, *ex officio*, who shall be the Chairperson;

(b) four representatives out of which one each to be elected by the—

(i) Dental Council of India constituted under section 3 of the Dentists Act, 1948;

- (ii) Medical Council of India constituted under section 3 of the Indian Medical Council Act, 1956; 102 of 1956.
- (iii) Nursing Council of India constituted under section 3 of the Indian Nursing Council Act, 1947; 48 of 1947.
- (iv) Pharmacy Council of India constituted under section 3 of the Pharmacy Act, 1948; 8 of 1948.
- (c) three representatives to be elected by the Central Council of Indian Medicine representing the Ayurveda, Siddha and Unani systems of medicine constituted under section 3 of the Indian Medicine Central Council Act, 1970; 48 of 1970.
- (d) one representative to be elected by the Central Council of Homoeopathy constituted under section 3 of the Homoeopathy Central Council Act, 1973; 59 of 1973.
- (e) one representative to be elected by the Central Council of the Indian Medical Association;
- (f) one representative of Bureau of the Indian Standards constituted under section 3 of the Bureau of Indian Standards Act, 1986; 63 of 1986.
- (g) two representatives from the Zonal Council set-up under section 15 of the States Reorganisation Act, 1956; 37 of 1956.
- (h) two representatives from the North-Eastern Council set-up under section 3 of the North-Eastern Council Act, 1971; 84 of 1971.
- (i) one representative from the line of paramedical systems excluding systems that have been given representation under clause (b);
- (j) two representatives from National Level Consumer Group to be nominated by the Central Government;
- (k) one representative from the Associations of Indian Systems of Medicines relating to Ayurveda, Siddha and Unani to be nominated by the Central Government;
- (l) the Secretary-General of the Quality Council of India, *ex officio*.
- (3) The nominated members of the National Council shall hold office for three years but shall be eligible for re-nomination for maximum of one more term of three years.
- (4) The elected members of the National Council shall hold office for three years, but shall be eligible for re-election:
- Provided that the person nominated or elected, as the case may be, shall hold office for such period till he holds appointment of the office by virtue of which he was nominated or elected to the council.
- (5) The members of the National Council shall be entitled for such allowances as may be prescribed by the Central Government.
- (6) The National Council may, subject to the previous approval of the Central Government, make bye-laws fixing a quorum and regulating its own procedure and the conduct of all business to be transacted by it.
- (7) The National Council shall meet at least once in three months.
- (8) The National Council may constitute sub-committees and may appoint to such sub-committee, as it deems fit, persons, who are not members of the National Council, for such period, not exceeding two years, for the consideration of particular matters.
- (9) The functions of the National Council may be exercised notwithstanding any vacancy therein.
- (10) The Central Government shall appoint such person to be the Secretary of the National Council as the Central Government may prescribe, and may provide the National Council with such other secretarial and other staff as the Central Government considers necessary.

4. A person shall be disqualified for being appointed as a member of the National Council if he—

Disqualifications for appointment as member:

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Council as is likely to affect prejudicially the discharge by him of his functions as a member.

5. The National Council shall—

Functions of National Council.

(a) compile and publish a National Register of clinical establishments within two years from the date of the commencement of this Act;

(b) classify the clinical establishments into different categories;

(c) develop the minimum standards and their periodic review;

(d) determine within a period of two years from its establishment, the first set of standards for ensuring proper healthcare by the clinical establishments;

(e) collect the statistics in respect of clinical establishments;

(f) perform any other function determined by the Central Government from time to time.

6. The National Council may associate with itself any person or body whose assistance or advice it may desire in carrying out any of the provisions of this Act.

Power to seek advice or assistance.

7. The National Council shall follow a consultative process for determining the standards and for classification of clinical establishments in accordance with such procedure as may be prescribed.

National Council to follow consultative process.

### CHAPTER III

#### REGISTRATION AND STANDARDS FOR CLINICAL ESTABLISHMENTS

8. (1) Every State Government shall by notification constitute a State Council for clinical establishments or the Union territory Council for clinical establishments, as the case may be.

State Council of clinical establishments.

(2) The State Council or the Union territory Council, as the case may be, shall consist of the following members, namely:—

(a) Secretary, Health — *ex officio*, who shall be the Chairman;

(b) Director of Health Services — *ex officio* member-secretary;

(c) Directors of different streams of Indian Systems of Medicine—*ex officio* members;

(d) one representative each to be elected by the executive committee of—

(i) State Medical Council of India;

(ii) State Dental Council of India;

(iii) State Nursing Council of India;

(iv) State Pharmacy Council of India;



(e) three representatives to be elected by the Executive of the State Council or the Union territory Council, as the case may be, of Indian Medicine representing the Ayurveda, Siddha and Unani systems of medicine;

(f) one representative to be elected by the State Council of the Indian Medical Association;

(g) one representative from the line of paramedical systems;

(h) two representatives from State level consumer groups or reputed non-Governmental organisations working in the field of health.

(3) The nominated member of the State Council or the Union territory Council, as the case may be, shall hold office for a term of three years, but shall be eligible for re-nomination for maximum of one more term of three years.

(4) The elected members of the State Council or the Union territory Council, as the case may be, shall hold office for three years, but shall be eligible for re-election:

Provided that the person nominated or elected, as the case may be, shall hold office for so long as he holds the appointment of the office by virtue of which he was nominated or elected to the State Council or the Union territory Council, as the case may be.

(5) The State Council or the Union territory Council shall perform the following functions, namely:—

(a) compiling and updating the State Registers of clinical establishment;

(b) sending monthly returns for updating the National Register;

(c) representing the State in the National Council;

(d) hearing of appeals against the orders of the authority; and

(e) publication on annual basis a report on the state of implementation of standards within their respective States:

Providing  
information  
to National  
Council.

9. It shall be the responsibility of the State Council for clinical establishments to compile and update the State Register of clinical establishments of the State and further to send monthly returns in digital format for updating the National Register.

Authority for  
registration.

10. (1) The State Government shall, by notification, set-up an authority to be called the district registering authority for each district for registration of clinical establishments, with the following members, namely:—

(a) District Collector — Chairperson;

(b) District Health Officer — Convenor;

(c) three members with such qualifications and on such terms and conditions as may be prescribed by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), for the purposes of provisional registration of clinical establishments under section 14, the District Health Officer or the Chief Medical Officer (by whatever name called) shall exercise the powers of the authority as per procedure that may be prescribed.

Registration  
for clinical  
establishments.

11. No person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of this Act.

Condition for  
registration.

12. (1) For registration and continuation, every clinical establishment shall fulfil the following conditions, namely:—

(i) the minimum standards of facilities and services as may be prescribed;

- (ii) the minimum requirement of personnel as may be prescribed;
- (iii) provisions for maintenance of records and reporting as may be prescribed;
- (iv) such other conditions as may be prescribed.

(2) The clinical establishment shall undertake to provide within the staff and facilities available, such medical examination and treatment as may be required to stabilise the emergency medical condition of any individual who comes or is brought to such clinical establishment.

13. (1) Clinical establishment of different systems shall be classified into such categories, as may be prescribed by the Central Government, from time to time.

Classification of clinical establishments.

(2) Different standards may be prescribed for classification of different categories referred to in sub-section (1):

Provided that in prescribing the standards for clinical establishments, the Central Government shall have regard to the local conditions.

## CHAPTER IV

### PROCEDURE FOR REGISTRATION

14. (1) For the purposes of registration of the clinical establishment under section 10, an application in the prescribed proforma along with the prescribed fee shall be made to the authority.

Application for provisional certificate of registration.

(2) The application shall be filed in person or by post or online.

(3) The application shall be made in such form and shall be accompanied by such details as may be prescribed under this Act or rules made thereunder.

(4) If any clinical establishment is in existence at the time of the commencement of this Act, an application for its registration shall be made within one year from the date of the commencement of this Act and a clinical establishment which comes into existence after commencement of this Act, shall apply for permanent registration within a period of six months from the date of its establishment.

(5) If any clinical establishment is already registered under any existing law requiring registration of such establishments, even then it shall apply for registration as referred to in sub-section (1).

15. The authority shall, within a period of ten days from the date of receipt of such application, grant to the applicant a certificate of provisional registration in such form and containing such particulars and such information, as may be prescribed.

Provisional certificate.

16. (1) The authority shall not conduct any inquiry prior to the grant of provisional registration.

No inquiry prior to provisional registration.

(2) Notwithstanding the grant of the provisional certificate of registration, the authority shall, within a period of forty-five days from the grant of provisional registration, cause to be published in such manner, as may be prescribed, all particulars of the clinical establishment so registered provisionally.

17. Subject to the provisions of section 23, every provisional registration shall be valid to the last day of the twelfth month from the date of issue of the certificate of registration and such registration shall be renewable.

Validity of provisional registration.

18. The certificate shall be kept affixed in a conspicuous place in the clinical establishment in such manner so as to be visible to every one visiting such establishment.

Display of certificate of registration.

19. In case the certificate is lost, destroyed, mutilated or damaged, the authority shall issue a duplicate certificate on the request of the clinical establishment and on the payment of such fees as may be prescribed.

Duplicate certificate.

Certificate to be non-transferable.

20. (1) The certificate of registration shall be non-transferable.

(2) In the event of change of ownership or management, the clinical establishment shall inform the authority of such change in such manner as may be prescribed.

(3) In the event of change of category, or location, or on ceasing to function as a clinical establishment, the certificate of registration in respect of such clinical establishment shall be surrendered to the authority and the clinical establishment shall apply afresh for grant of certificate of registration.

Publication of expiry of registration.

21. The authority shall cause to be published within such time and in such manner, as may be prescribed, the names of clinical establishments whose registration has expired.

Renewal of registration.

22. The application for renewal of registration shall be made thirty days before the expiry of the validity of the certificate of provisional registration and, in case the application for renewal is made after the expiry of the provisional registration, the authority shall allow renewal of registration on payment of such enhanced fees, as may be prescribed.

Time limit for provisional registration.

23. Where the clinical establishments in respect of which standards have been notified by the Central Government, provisional registration shall not be granted or renewed beyond,—

(i) the period of two years from the date of notification of the standards in case of clinical establishments which came into existence before the commencement of this Act;

(ii) the period of two years from the date of notification of the standards for clinical establishments which come into existence after the commencement of this Act but before the notification of the standards; and

(iii) the period of six months from the date of notification of standards for clinical establishments which come into existence after standards have been notified.

Application for permanent registration.

24. Application for permanent registration by a clinical establishment shall be made to the authority in such form and be accompanied by such fees, as may be prescribed.

Verification of application.

25. The clinical establishment shall submit evidence of having complied with the prescribed minimum standards in such manner, as may be prescribed.

Display of information for filing objections.

26. As soon as the clinical establishment submits the required evidence of having complied with the prescribed minimum standards, the authority shall cause to be displayed for information of the public at large and for filing objections, if any, in such manner, as may be prescribed, all evidence submitted by the clinical establishment of having complied with the prescribed minimum standards for a period of thirty days before processing for grant of permanent registration.

Communication of objections.

27. If objections are received within the period referred to in the preceding section, such objections shall be communicated to the clinical establishment for response within a period of forty-five days.

Standards for permanent registration.

28. Permanent registration shall be granted only when a clinical establishment fulfils the prescribed standards for registration by the Central Government.

Allowing or disallowing of registration.

29. The authority shall pass an order immediately after the expiry of the prescribed period and within the next thirty days thereafter either—

(a) allowing the application for permanent registration; or

(b) disallowing the application:

Provided that the authority shall record its reasons, if it disallows an application, for permanent registration.

30. (1) The authority shall, if it, allows an application of the clinical establishment, issue a certificate of permanent registration in such form and containing such particulars, as may be prescribed. Certificate of permanent registration.

(2) The certificate shall be valid for a period of five years from the date of issue.

(3) For the purposes of sub-section (1), the provisions of sections 18, 19, 20 and 21 shall also apply.

(4) The applications for renewal of permanent registration shall be made within six months before the expiry of the validity of the certificate of permanent registration and, in case the application of renewal is not submitted within the stipulated period, the authority may allow renewal of registration on payment of such enhanced fees and penalties as may be prescribed.

31. The disallowing of an application for permanent registration shall not debar a clinical establishment from applying afresh for permanent registration under section 24 and after providing such evidence, as may be required, of having rectified the deficiencies on which grounds the earlier application was disallowed. Fresh application for permanent registration.

32. (1) If, at any time after any clinical establishment has been registered, the authority is satisfied that,— Cancellation of registration.

(a) the conditions of the registration are not being complied with; or

(b) the person entrusted with the management of the clinical establishment has been convicted of an offence punishable under this Act,

it may issue a notice to the clinical establishment to show cause within three months' time as to why its registration under this Act should not be cancelled for the reasons to be mentioned in the notice.

(2) If after giving a reasonable opportunity to the clinical establishment, the authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, it may, by an order, without prejudice to any other action that it may take against such clinical establishment, cancel its registration.

(3) Every order made under sub-section (2) shall take effect—

(a) where no appeal has been preferred against such order immediately on the expiry of the period prescribed for such appeal; and

(b) where such appeal has been preferred and it has been dismissed from the date of the order of such dismissal:

Provided that the authority, after cancellation of registration for reasons to be recorded in writing, may restrain immediately the clinical establishment from carrying on if there is imminent danger to the health and safety of patients.

33. (1) The authority or an officer authorised by it shall have the right to cause an inspection of, or inquiry in respect of any registered clinical establishment, its building, laboratories and equipment and also of the work conducted or done by the clinical establishment, to be made by such multi-member inspection team as it may direct and to cause an inquiry to be made in respect of any other matter connected with the clinical establishment and that establishment shall be entitled to be represented thereat. Inspection of registered clinical establishments.

(2) The authority shall communicate to the clinical establishment the views of that authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the clinical establishment thereon, advise that establishment upon the action to be taken.

(3) The clinical establishment shall report to the authority, the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report shall be furnished within such time, as the authority may direct.

(4) Where the clinical establishment does not, within a reasonable time, take action to the satisfaction of the authority, it may, after considering any explanation furnished or

representation made by the clinical establishment, issue such directions within such time as indicated in the direction, as that authority deems fit, and the clinical establishment shall comply with such directions.

Power to enter.

34. The authority or an officer authorised by it may, if there is any reason to suspect that anyone is carrying on a clinical establishment without registration, enter and search in the manner prescribed, at any reasonable time and the clinical establishment, shall offer reasonable facilities for inspection or inquiry and be entitled to be represented thereat:

Provided that no such person shall enter the clinical establishment without giving notice of his intention to do so.

Levy of fee by State Government. Appeal.

35. The State Government may charge fees for different categories of clinical establishments, as may be prescribed.

36. (1) Any person, aggrieved by an order of the registering authority refusing to grant or renew a certificate of registration or revoking a certificate of registration may, in such manner and within such period as may be prescribed, prefer an appeal to the State Council:

Provided that the State Council may entertain an appeal preferred after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

## CHAPTER V

### REGISTER OF CLINICAL ESTABLISHMENTS

Register of clinical establishments.

37. (1) The authority shall within a period of two years from its establishment, compile, publish and maintain in digital format a register of clinical establishments, registered by it and it shall enter the particulars of the certificate so issued in a register to be maintained in such form and manner, as may be prescribed by the State Government.

(2) Each authority, including any other authority set-up for the registration of clinical establishments under any other law for the time being in force, shall supply in digital format to the State Council of clinical establishments a copy of every entry made in the register of clinical establishments in such manner, as may be prescribed to ensure that the State Register is constantly up-to-date with the registers maintained by the registering authority in the State.

Maintenance of State Register of clinical establishments.

38. (1) Every State Government shall maintain in digital and in such form and containing such particulars, as may be prescribed by the Central Government a register to be known as the State Register of clinical establishments in respect of clinical establishments of that State.

(2) Every State Government shall supply in digital format to the Central Government, a copy of the State Register of clinical establishments and shall inform the Central Government all additions to and other amendments in such register made, for a particular month by the 15th day of the following month.

Maintenance of National Register of clinical establishments.

39. The Central Government shall maintain in digital format an All India Register to be called as the National Register of clinical establishments that shall be an amalgam of the State Register of clinical establishments maintained by the State Governments and shall cause the same to be published in digital format.

## CHAPTER VI

### PENALTIES

Penalty.

40. Whoever contravenes any provision of this Act shall, if no penalty is provided elsewhere, be punishable for the first offence with fine which may extend to ten thousand

rupees, for any second offence with fine which may extend to fifty thousand rupees and for any subsequent offence with fine which may extend to five lakh rupees.

41. (1) Whoever carries on a clinical establishment without registration shall, on first contravention, be liable to a monetary penalty up to fifty thousand rupees, for second contravention with a monetary penalty which may extend to two lakh rupees and for any subsequent contravention with a monetary penalty which may extend to five lakh rupees.

Monetary  
penalty for  
non-  
registration.

(2) Whoever knowingly serves in a clinical establishment which is not duly registered under this Act, shall be liable to a monetary penalty which may extend to twenty-five thousand rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8) of section 42.

(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

42. (1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall be liable to a monetary penalty which may extend to five lakh rupees.

Disobedience  
of direction,  
obstruction  
and refusal of  
information.

(2) Whoever being required by or under this Act to supply any information wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall be liable to a monetary penalty which may extend to five lakh rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8).

(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

(8) The monetary penalty levied under sections 41 and 42 shall be credited to such account as the State Government may by order specify in this behalf.

Penalty for  
minor  
deficiencies.

43. Whoever contravenes any provision of this Act or any rule made thereunder resulting in deficiencies that do not pose any imminent danger to the health and safety of any patient and can be rectified within a reasonable time, shall be punishable with fine which may extend to ten thousand rupees.

Contravention  
by companies.

44. (1) Where a person committing contravention of any of the provisions of this Act or of any rule made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to fine:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that contravention and shall be liable to fine.

*Explanation.*—For the purpose of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Offences by  
Government  
Departments.

45. (1) Where an offence under this Act has been committed by any Department of Government within a period of six months after the commencement of this Act, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Recovery of  
fine.

46. Whoever fails to pay the fine, the State Council of clinical establishment may prepare a certificate signed by an officer authorised by it specifying the fine due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder, as if it were an arrear of land revenue.

## CHAPTER VII

## MISCELLANEOUS

47. (1) No suit, prosecution or other legal proceedings shall lie against any authority or any member of the National Council or State Council or any officer authorised in this behalf in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder. Protection of action taken in good faith.

(2) No suit or other legal proceedings shall lie against a State Government or the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

48. Every clinical establishment shall, within such time or within such extended time, as may be prescribed in that behalf, furnish to the authority or the State Council or the National Council such returns or the statistics and other information in such manner, as may be prescribed by the State Government, from time to time. Furnishing of returns, etc.

49. Without prejudice to the foregoing provisions of this Act, the authority shall have the power to issue such directions, including furnishing returns, statistics and other information for the proper functioning of clinical establishments and such directions shall be binding. Power to give directions.

50. Every employee of the authority, the National Council and the State Council shall be deemed to, when acting or purporting to act in pursuance of any of the provisions of this Act, be public servants within the meaning of section 21 of the Indian Penal Code. Employees of the authority, etc., to be public servants.

51. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the difficulty: Power to remove difficulties

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

52. (1) The Central Government may, by notification, make rules for carrying out all or any of the provisions of this Act. Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) allowances for the members of the National Council under sub-section (5) of section 3;

(b) appointment of such person to be the Secretary of the State Council by the Central Government under sub-section (10) of section 3;

(c) the determination of standards and for classification of clinical establishments under section 7;

(d) the qualification and the terms and conditions for the members of the authority under clause (c) of sub-section (1) of section 10;

(e) the procedure under which the powers of the authority may be exercised by the District Health Officer or Chief Medical Officer for the purpose of provisional registration of clinical establishment under sub-section (2) of section 10;



(f) the minimum standards of facilities and services under clause (i) of sub-section (1) of section 12;

(g) the minimum number of personnel under clause (ii) of sub-section (1) of section 12;

(h) the maintenance of records and reporting by the clinical establishment under clause (iii) of sub-section (1) of section 12;

(i) other conditions for registration and continuation of clinical establishment under clause (iv) of sub-section (1) of section 12;

(j) classification of clinical establishment under sub-section (1) of section 13;

(k) the different standards for classification of clinical establishments under sub-section (2) of section 13;

(l) the minimum standards for permanent registration under section 28;

(m) the form and particulars to be contained in the register to be maintained under section 38.

Laying of rules.

**53.** Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

**54. (1)** The State Government may, by notification, make rules for carrying out in respect of matters which do not fall within the purview of section 52.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the proforma and the fee to be paid for registration under sub-section (1) of section 14;

(b) the form and details of application under sub-section (3) of section 14;

(c) the particulars and information contained in certificate of provisional registration under section 15;

(d) the manner of publication of all particulars of the clinical establishments proposed to be registered under sub-section (2) of section 16;

(e) the fees to be paid to issue a duplicate certificate under section 19;

(f) the change of ownership or management to be informed by the clinical establishment to the authority under sub-section (2) of section 20;

(g) the manner in which the authority shall publish the names of the clinical establishments whose registration expired under section 21;

(h) the enhanced fees to be charged for renewal after expiry of the provisional registration under section 22;

(i) the form of the application and fees to be charged by the State Government under section 24;

(j) the manner of submitting evidence of the clinical establishments having complied with the minimum standards under section 25;

(k) the manner of displaying information of the clinical establishments having complied with the minimum standards for filing objection under section 26;

(l) the expiry of period specified in section 29;

(m) the form and particulars of the certificate of registration under section 30;

(n) the period within which an appeal shall be preferred under clause (a) of sub-section (3) of section 32;

(o) the manner of entry and search of clinical establishment under section 34;

(p) the fees to be charged by the State Government for different categories of clinical establishments under section 35;

(q) the manner and the period within which an appeal may be preferred to the State Council under sub-section (1) of section 36;

(r) the form and the fee to be paid for an appeal under sub-section (2) of section 36;

(s) the form and the manner in which the register to be maintained under sub-section (1) of section 37;

(t) the manner of supply to the State Council in digital format the entry made in the register of clinical establishment under sub-section (2) of section 37;

(u) the manner of holding an inquiry by the authority under sub-section (3) of sections 41 and 42;

(v) the manner of filing the appeal under sub-section (7) of sections 41 and 42;

(w) the manner and the time within which the information is to be furnished to the authority or the State Council or the National Council as the case may be, under section 48;

(x) any other matter which is required to be or may be prescribed by the State Government.

55. Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House. Laying of rules.

56. (1) The provisions of this Act shall not apply to the States in which the enactments specified in the Schedule are applicable: Savings.

Provided that the States in which the enactments referred to in sub-section (1) are applicable, and such States subsequent to the commencement of this Act, adopts this Act under clause (1) of article 252 of the Constitution, the provisions of this Act shall, subsequent to such adoption, apply in that State.

(2) The Central Government may, as and when consider necessary, by notification amend the Schedule.

## THE SCHEDULE

[See section 56]

1. The Andhra Pradesh Private Medical Care Establishments (Registration and Regulation) Act, 2002.
2. The Bombay Nursing Homes Registration Act, 1949.
3. The Delhi Nursing Homes Registration Act, 1953.
4. The Madhya Pradesh Upcharya Griha Tatha Rujopchar Sanbabdu Sthapamaue (Ragistrikan Tatha Anugyapan) Adhinyam, 1973.
5. The Manipur Homes and Clinics Registration Act, 1992.
6. The Nagaland Health Care Establishments Act, 1997.
7. The Orissa Clinical Establishments (Control and Regulation) Act, 1990.
8. The Punjab State Nursing Home Registration Act, 1991.
9. The West Bengal Clinical Establishments Act, 1950.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 19th August 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 18th August 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

## THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 2010

(Act No. 24 of 2010)

*An Act further to amend the Industrial Disputes Act, 1947.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 2010.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

14 of 1947.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2,—

Amendment of  
section 2.

(i) in clause (a),—

(a) in sub-clause (i), for the words “major port, the Central Government, and”, the words “major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and” shall be substituted;

(b) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government;

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.”;

(ii) in clause (s), in sub-clause (iv), for the words “one thousand six hundred rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of  
section 2A.

3. Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”.

Amendment of  
section 7.

4. In section 7 of the principal Act, in sub-section (3), after clause (e), the following clauses shall be inserted, namely:—

“(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer;

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(g) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.”.

Amendment of  
section 7A.

5. In section 7A of the principal Act, in sub-section (3), after clause (aa), the following clauses shall be inserted, namely:—

“(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer;

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.”.

6. After section 9B of the principal Act, for Chapter IIB, the following Chapter shall be substituted, namely:—

Substitution of new Chapter for Chapter IIB.

## “CHAPTER IIB

### GRIEVANCE REDRESSAL MACHINERY

9C. (1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

Setting up of Grievance Redressal Machinery.

(2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.

(3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.

(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.

(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned.”.

7. In section 11 of the principal Act, after sub-section (8), the following sub-sections shall be inserted, namely:—

Amendment of section 11.

“(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908.

5 of 1908.

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”.

8. In section 38 of the principal Act, in sub-section (2),—

Amendment of section 38.

(i) clause (ab) shall be omitted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;”.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 20th August 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 19th August 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2010

(Act No. 25 of 2010)

*An Act to amend the Foreign Trade (Development and Regulation) Act, 1992.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Foreign Trade (Development and Regulation) Amendment Act, 2010. Short title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment  
of section 2.

2. In section 2 of the Foreign Trade (Development and Regulation) Act, 1992 (hereinafter referred to as the principal Act),— 22 of 1992.

(a) for clause (e), the following shall be substituted, namely:—

‘(e) “import” and “export” means,—

(I) in relation to goods, bringing into, or taking out of, India any goods by land, sea or air;

(II) in relation to services or technology,—

(i) supplying, services or technology—

(A) from the territory of another country into the territory of India;

(B) in the territory of another country to an Indian service consumer;

(C) by a service supplier of another country, through commercial presence in India;

(D) by a service supplier of another country, through presence of their natural persons in India;

(ii) supplying, services or technology—

(A) from India into the territory of any other country;

(B) in India to the service consumer of any other country;

(C) by a service supplier of India, through commercial presence in the territory of any other country;

(D) by a service supplier of India, through presence of Indian natural persons in the territory of any other country:

Provided that “import” and “export” in relation to the goods, services and technology regarding Special Economic Zone or between two Special Economic Zones shall be governed in accordance with the provisions contained in the Special Economic Zones Act, 2005.’; 28 of 2005.

(b) after clause (i), the following clauses shall be inserted, namely:—

(j) “services” means service of any description which is made available to potential users and includes all the tradable services specified under the General Agreement on Trade in Services entered into amongst India and other countries who are party to the said Agreement:

Provided that, this definition shall not apply to the domain of taxation;

(k) “service supplier” means any person who supplies a service and who intends to take benefit under the foreign trade policy;

(l) “specified goods or services or technology” means the goods or services or technology, the export, import, transfer, re-transfer, transit and trans-shipment of which is prohibited or restricted because of imposition of conditions on the grounds of their being pertinent or relevant to India as a Nuclear Weapon State, or to the national security of India, or to the furtherance of its foreign policy or its international obligations under any bilateral, multilateral or international treaty, covenant, convention or arrangement relating to weapons of mass destruction or their means of delivery to which India is a party or its agreement with a foreign country under the foreign trade policy formulated and notified under section 5 of the Act;



(m) "technology" means any information (including information embodied in software), other than information in the public domain, that is capable of being used in—

- (i) the development, production or use of any goods or software;
- (ii) the development of, or the carrying out of, an industrial or commercial activity or the provision of service of any kind.

*Explanation,—* For the purpose of this clause—

(a) when technology is described wholly or partly by reference to the uses to which it (or the goods to which it relates) may be put, it shall include services which are provided or used, or which are capable of being used in the development, production or use of such technology or goods;

(b) "public domain" shall have the same meaning as assigned to it in clause (i) of section 4 of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

21 of 2005.

3. In the principal Act, in sub-heading below "Chapter II", for the words "EXPORT AND IMPORT POLICY", the words "FOREIGN TRADE POLICY" shall be substituted. Amendment—  
of title of  
Chapter II.

4. In section 3 of the principal Act,—

(a) in sub-section (2),—

(i) for the words "import or export of goods", the words "import or export of goods or services or technology" shall be substituted;

(ii) after sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies."

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder."

5. For section 5 of the principal Act, the following section shall be substituted, namely:— Substitution  
of new section  
for section 5.

"5. The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy: Foreign Trade  
Policy.

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette."

6. In section 6 of the principal Act, in sub-section (2), for the words "export and import policy", the words "foreign trade policy" shall be substituted. Amendment  
of section 6.

7. In section 7 of the principal Act, the following proviso shall be inserted, namely:— Amendment  
of section 7.

"Provided that in case of import or export of services or technology, the Importer-exporter Code Number shall be necessary only when the service or technology provider is taking benefits under the foreign trade policy or is dealing with specified services or specified technologies."

Amendment  
of section 8.

8. In section 8 of the principal Act,—

(4) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where—

(a) any person has contravened any of the provisions of this Act or any rules or orders made thereunder or the foreign trade policy or any other law for the time being in force relating to Central excise or customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette; or

(b) the Director General or any other officer authorised by him has reason to believe that any person has made an export or import in a manner prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit of the goods of, or services or technology provided from, the country; or

(c) any person who imports or exports specified goods or services or technology, in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy,

the Director General or any other officer authorised by him may call for the record or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer-exporter Code Number and after giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, as may be specified in the order, or cancel the Importer-exporter Code Number granted to that person.”;

(B) in sub-section (2), for the words “import or export any goods”, the words “import or export any goods or services or technology” shall be substituted.

Amendment  
of section 9.

9. In section 9 of the principal Act,—

(a) in sub-sections (1), (3), (4) and (5), for the word “licence”, wherever it occurs, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Director General or an officer authorised by him may, on an application and after making such inquiry as he may think fit, grant or renew or refuse to grant or renew a licence to import or export such class or classes of goods or services or technology as may be prescribed and, grant or renew or refuse to grant or renew a certificate, scrip or any instrument bestowing financial or fiscal benefit, after recording in writing his reasons for such refusal.”

Insertion of  
new Chapter  
IIIA.

10. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

### ‘CHAPTER IIIA

#### QUANTITATIVE RESTRICTIONS

Power of  
Central  
Government  
to impose  
quantitative  
restrictions.

9A. (1) If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any goods are imported into India in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic industry, it may, by notification in the Official Gazette, impose such quantitative restrictions on the import of such goods as it may deem fit:

Provided that no such quantitative restrictions shall be imposed on any goods originating from a developing country so long as the share of imports of such goods from that country does not exceed three per cent. or where such goods originate from

more than one developing country, then, so long as the aggregate of the imports from all such countries taken together does not exceed nine per cent. of the total imports of such goods into India.

(2) The quantitative restrictions imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the quantitative restrictions should continue to be imposed to prevent such injury or threat and to facilitate the adjustments, it may extend the said period beyond four years:

Provided further that in no case the quantitative restrictions shall continue to be imposed beyond a period of ten years from the date on which such restrictions were first imposed.

(3) The Central Government may, by rules provide for the manner in which goods, the import of which shall be subject to quantitative restrictions under this section, may be identified and the manner in which the causes of serious injury or causes of threat of serious injury in relation to such goods may be determined.

(4) For the purposes of this section—

(a) “developing country” means a country notified by the Central Government in the Official Gazette, in this regard;

(b) “domestic industry” means the producers of goods (including producers of agricultural goods)—

(i) as a whole of the like goods or directly competitive goods in India; or

(ii) whose collective output of the like goods or directly competitive goods in India constitutes a major share of the total production of the said goods in India;

(c) “serious injury” means an injury causing significant overall impairment in the position of a domestic industry;

(d) “threat of serious injury” means a clear and imminent danger of serious injury.

11. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment  
of section 10.

“(1) The Central Government may, by notification in the Official Gazette, authorise any person for the purposes of exercising such powers with respect to,—

(a) entering such premises where the goods are kept, stored or processed, manufactured, traded or supplied or received for the purposes of import or export and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of goods;

(b) entering such premises from which the services or technology are being provided, supplied, received, consumed or utilised and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of services and technology,

subject to such requirements and conditions and with the approval of such officer, as may be prescribed:

Provided that the provisions of clause (b) shall be applicable, in case of import of export of services or technology, only when the service or technology provider is availing benefit under the foreign trade policy or is dealing with specified services or specified technologies.”.

Substitution of  
new section  
for section 11.

Contravention  
of provisions  
of this Act,  
rules, orders  
and foreign  
trade policy.

12. For section 11 of the principal Act, the following section shall be substituted, namely:—

"11. (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person signs or uses, or causes to be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorised by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty of not less than ten thousand rupees or more than five times the value of the goods or services or technology in respect of which such declaration, statement or document had been submitted, whichever is more.

(4) Where any person, on a notice to him by the adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes or cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(5) A penalty imposed under this Act may, if it is not paid by any person, be recovered by any one or more of the following modes, namely:—

(a) the Director General may deduct or require any officer subordinate to him to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer; or

(b) the Director General may require any officer of customs to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer of customs, as if the said amount is payable under the Customs Act, 1962; or

52 of 1962.

(c) the Director General may require the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs to recover the amount so payable by detaining or selling any goods (including the goods connected with services or technology) belonging to such person which are under the control of the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs, as if the said amount is payable under the Customs Act, 1962; or

52 of 1962.

(d) if the amount cannot be recovered from such person in the manner provided in clauses (a), (b) and (c),—

(i) the Director General or any officer authorised by him may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue; or

(ii) the Director General or any officer authorised by him (including an officer of Customs who shall then exercise his powers under the Customs Act, 1962) and in accordance with the rules made in this behalf, detain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid, as if the said amount is payable under the Customs Act, 1962; and in

52 of 1962.

case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and costs including cost of sale remaining unpaid and shall render the surplus, if any to such person.

(6) Where the terms of any bond or other instrument executed under this Act or any rules made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (5), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(7) without prejudice to the provisions contained in this section, the Importer-Exporter Code Number of any person who fails to pay any penalty imposed under this Act, may be suspended by the Adjudicating Authority till the penalty is paid or recovered, as the case may be.

(8) Where any contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy has been, is being, or is attempted to be, made, the goods (including the goods connected with services or technology) together with any package, covering or receptacle and any conveyances shall, subject to such conditions and requirements as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(9) The goods (including the goods connected with services or technology) or the conveyance confiscated under sub-section (8) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be."

13. After section 11 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 11A and 11B.

"11A. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Crediting sums realised by way of penalties in Consolidated Fund of India.

11B. Settlement of customs duty and interest thereon as ordered by the Settlement Commission as constituted under section 32 of the Central Excise Act, 1944, shall be deemed to be a settlement under this Act."

Empowering Settlement Commission for regularisation of export obligation default.

14. In section 14 of the principal Act, for the word "goods" at both the places where it occurs, the words and brackets "goods (including the goods connected with services or technology)" shall be substituted.

Amendment of section 14.

15. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of a new Chapter IVA.

#### "CHAPTER IVA

##### CONTROLS ON EXPORT OF SPECIFIED GOODS, SERVICES AND TECHNOLOGY

14A. (1) In regard to controls on export of specified goods, services and technology referred to in this Chapter, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to exports, transfers, re-transfers, brought in transit, trans-shipment of, and brokering in specified goods, technology or services.

Controls on export of specified goods, services and technology.

1 of 1944.

21 of 2005.

(2) All terms, expressions or provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to the specified goods, services or technology with such exceptions, modifications and adaptations as may be specified by the Central Government by notification in the Official Gazette. 21 of 2005.

(3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Chapter—

(a) shall not apply to any goods, services or technologies, or

(b) shall apply to any goods, services or technologies with such exceptions, modifications and adaptations as may be specified in the notification.

Transfer  
controls.

14B. (1) The Central Government may, by notification in the Official Gazette, make rules in conformity with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 for, or, in connection with, the imposition of controls in relation to transfer of specified goods, services or technology. 21 of 2005.

(2) No goods, services or technology notified under this Chapter shall be exported, transferred, re-transferred, brought in transit or transshipped except in accordance with the provisions of this Act, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 or any other relevant Act. 21 of 2005.

Catch-all  
controls.

14C. No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery systems.

Suspension or  
cancellation  
of a licence.

14D. The Director General or an officer authorised by him may, by order, suspend or cancel a licence to import or export of specified goods or services or technology without giving the holder of the licence a reasonable opportunity of being heard but such person shall be given a reasonable opportunity of being heard within six months of such order and thereupon the Director General or the officer so authorised may, if necessary, by order in writing, confirm, modify or revoke such order.

Offences and  
penalties.

14E. (1) In case of a contravention relating to specified goods, services or technologies, the penalty shall be in accordance with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. 21 of 2005.

(2) Where any person contravenes or attempts to contravene or abets, any of the provisions of this Chapter in relation to import or export of any specified goods or services or technology, he shall, without prejudice to any penalty which may be imposed on him, be punishable with imprisonment for a term stipulated in the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. 21 of 2005.

(3) No court shall take cognizance of any offence punishable under this Chapter without the previous sanction of the Central Government or any officer authorised in this behalf by the Central Government by general or special order.”

Amendment  
of title of  
Chapter V.

16. In the principal Act, in sub-heading below “CHAPTER V”, for the word “REVISION”, the word “REVIEW” shall be substituted.

Amendment  
of section 15.

17. In section 15 of the principal Act, in sub-section (2), in the proviso, for the word “goods”, the words and brackets “the goods (including the goods connected with services or technology)” shall be substituted.

18. For section 16 of the principal Act, the following section shall be substituted, namely:—
- Substitution of new section for section 16.
- “16. The Central Government, in the case of any decision or order made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit:
- Review.
- Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—
- (a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied; and
- (b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.”.
19. In section 17 of the principal Act, for the word “Revision” wherever it occurs, the word “Review” shall be substituted.
- Amendment of section 17.
20. After section 18 of the principal Act, the following section shall be inserted, namely:—
- Insertion of new section 18A.
- “18A. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.”.
- Application of other laws not barred.
21. In section 19 of the principal Act, in sub-section (2), —
- Amendment of section 19.
- (a) in clause (b), for the word “licence”, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;
- (b) for clause (c), the following clause shall be substituted, namely:—
- “(c) the class or classes of goods (including the goods connected with service or technology) for which a licence, certificate, scrip or any instrument bestowing financial or fiscal benefits may be granted under sub-section (2) of section 9;”;
- (c) in clauses (d) and (e), for the word “licence”, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;
- (d) after clause (e), the following clause shall be inserted, namely:—
- “(ea) the matter in which goods, the import of which shall be subject to quantitative restrictions, may be identified and the manner in which the causes of serious injury or causes of threat of serious injury in relation to such goods may be determined under sub-section (3) of section 9A;”;
- (e) in clause (f), for the word “goods”, the words and brackets “goods (including the goods connected with the service or technology)” shall be substituted;
- (f) in clause (g), for the words, brackets and figures “sub-section (3) of section 11”, the words, brackets and figures “sub-section (4) of the section 11” shall be substituted;
- (g) for clause (h), the following clause shall be substituted, namely:—
- “(h) the requirements and conditions subject to which goods (including the goods connected with the service or technology) and conveyances shall be liable to confiscation under sub-section (8) of section 11;”;
- (h) for clause (i), the following clause shall be substituted, namely:—
- “(i) the manner in which and the conditions subject to which goods (including the goods connected with the service or technology) and conveyances may be released on payment of redemption charges under sub-section (9) of section 11.”.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 25th August 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 24th August 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

## THE ENERGY CONSERVATION (AMENDMENT) ACT, 2010

(Act No. 28 of 2010)

*An Act to amend the Energy Conservation Act, 2001.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. This Act may be called the Energy Conservation (Amendment) Act, 2010.

Short title.

52 of 2001.

2. In section 2 of the Energy Conservation Act, 2001 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) in clause (a), for the words “an auditor possessing qualifications specified under”, the words “an energy auditor accredited in accordance with the provisions of” shall be substituted;

(ii) in clause (b), for the words and figures “established under section 30”, the words and figures “referred to in section 30” shall be substituted;



(iii) for clause (c), the following clause shall be substituted, namely:—

“(c) “building” means any structure or erection or part of structure or erection after the rules relating to energy conservation building codes have been notified under clause (p) of section 14 and clause (a) of section 15 and includes any existing structure or erection or part of structure or erection, which is having a connected load of 100 Kilowatt (kW) or contract demand of 120 Kilo- volt Ampere (kVA) and above and is used or intended to be used for commercial purposes;”;

(iv) after clause (m), the following clauses shall be inserted, namely:—

“(ma) “energy savings certificate” means any energy savings certificate issued to the designated consumers under sub-section (1) of section 14A;

“(maa) “equipment or appliance” means any equipment or appliance which consumes, generates, transmits or supplies energy and includes any device that consumes any form of energy and produces a desired work;”.

Amendment  
of section 9.

3. In section 9 of the principal Act, in sub-section (3), for the words “three years”, the words “five years” shall be substituted.

Amendment  
of section 10.

4. In section 10 of the principal Act, in sub-section (1), for the words “The Central Government”, the words “The Bureau” shall be substituted.

Amendment  
of section 13.

5. In section 13 of the principal Act, in sub-section (2),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) recommend to the Central Government for issuing of the energy savings certificate under section 14A;”;

(ii) for clause (p), the following clause shall be substituted, namely:—

“(p) specify, by regulations, the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation;”;

(iii) in clause (r), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;

(iv) after clause (s), the following clause shall be inserted, namely:—

“(sa) conduct examination for capacity building and strengthening of services in the field of energy conservation including certification of energy managers and energy auditors.”.

Amendment  
of section 14.

6. In section 14 of the principal Act,—

(i) in clause (c), for the proviso, the following provisos shall be substituted, namely:—

“Provided that no notification prohibiting manufacture or sale or purchase or import of equipment or appliance shall be issued within a period of six months from the date of notification issued under clause (a) of this section:

Provided further that the Central Government may, having regard to the market share and the technological development having impact on equipment or appliance, and for reasons to be recorded in writing, extend the said period of six months referred to in the first proviso by a further period not exceeding six months;”;

(ii) in clause (e), for the words “any user or class of users of energy as a designated consumer”, the words “any user or class of users of energy in the energy intensive industries and other establishments as specified in the Schedule as a designated consumer” shall be substituted;

(iii) in clause (m), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;

(iv) in clause (o), for the words “such form and manner”, the words “such form, the time within which and the manner” shall be substituted.

7. After section 14 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 14A and 14B.

“14A. (1) The Central Government may issue the energy savings certificate to the designated consumer whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed.

Power of Central Government to issue energy savings certificate.

(2) The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase the energy savings certificate to comply with the prescribed norms and standards.

14B. The Central Government may, in consultation with the Bureau, prescribe the value of per metric ton of oil equivalent of energy consumed for the purposes of this Act.”

Power of Central Government to specify value of energy.

8. In section 26 of the principal Act,—

Amendment of section 26.

(a) in sub-section (1),—

(i) the words, brackets and letter “or clause (n)” shall be omitted;

(ii) for the words “ten thousand rupees”, the words “ten lakh rupees” shall be substituted;

(iii) for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If any person fails to comply with the provisions of clause (n) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees and, in the case of continuing failure, with an additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms.”

9. For section 30 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 30.

“30. The Appellate Tribunal established under section 110 of the Electricity Act, 2003 shall, without prejudice to the provisions of the Electricity Act, 2003, be the Appellate Tribunal for the purposes of this Act and hear appeals against the orders of the adjudicating officer or the Central Government or the State Government or any other authority under this Act.”

Appellate Tribunal.

10. After section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 31A.

“31A. The provisions of sections 120 to 123 (both inclusive) of the Electricity Act, 2003 shall, *mutatis mutandis*, apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its function under the Electricity Act, 2003.”

Procedure and powers of Appellate Tribunal.

36 of 2003.

36 of 2003.

Omission of  
sections 32 to  
43.

11. Sections 32 to 43 of the principal Act shall be omitted.

Amendment  
of section 54.

12. In section 54 of the principal Act, the words "Chairperson of the Appellate Tribunal or the Members of the Appellate Tribunal or officers or employees of the Appellate Tribunal or the Members of the State Commission or the" shall be omitted.

Amendment  
of section 56.

13. In section 56 of the principal Act, in sub-section (2),—

(i) in clause (j), for the words "energy managers", the words "energy auditors and energy managers" shall be substituted;

(ii) after sub-clause (l), the following clauses shall be inserted, namely:—

"(la) prescribing the procedure for issuing the energy savings certificate under sub-section (1) of section 14A;

(laa) the value of per metric ton of oil equivalent of energy consumed under section 14B;"

(iii) clauses (s), (t) and (u) shall be omitted.

Amendment  
of section 58.

14. In section 58 of the principal Act, in sub-section (2),—

(a) for clause (f), the following clause shall be substituted, namely:—

"(f) the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation under clause (p) of sub-section (2) of section 13;"

(b) in clause (h), for the words "energy managers", the words "energy auditors and energy managers" shall be substituted.

Amendment  
of the  
Schedule.

15. In the Schedule to the principal Act, in the heading, the words "specified as designated consumers" shall be omitted.

Amendment  
of certain  
enactment

16. The enactment specified in the Schedule to this Act shall be amended in the manner specified therein.

## THE SCHEDULE

(See section 16)

### AMENDMENT TO THE ELECTRICITY ACT, 2003

(36 OF 2003)

In section 110, for the words "under this Act", the words "under this Act or any other law for the time being in force" shall be substituted.

Amendment of  
section 110.

Bhopal, the 23rd December 2011

No. 746I-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 1st September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 31st August 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

## THE PERSONAL LAWS (AMENDMENT) ACT, 2010

(Act No. 30 of 2010)

*An Act further to amend the Guardians and Wards Act, 1890 and the Hindu Adoptions and Maintenance Act, 1956.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. This Act may be called the Personal Laws (Amendment) Act, 2010.

Short title.

### CHAPTER II

#### AMENDMENT TO THE GUARDIANS AND WARDS ACT, 1890

2. In section 19 of the Guardians and Wards Act, 1890, for clause (b), the following clause shall be substituted, namely:—

Amendment of  
section 19 of  
Act 8 of 1890.

"(b) of a minor, other than a married female, whose father or mother is living and is not, in the opinion of the court, unfit to be guardian of the person of the minor, or".

## CHAPTER III

## AMENDMENTS TO THE HINDU ADOPTIONS AND MAINTENANCE ACT, 1956

Substitution of  
new section for  
section 8.

3. In the Hindu Adoptions and Maintenance Act, 1956 (hereafter in this Chapter referred to as the Hindu Adoptions and Maintenance Act), for section 8, the following section shall be substituted, namely:—

78 of 1956.

Capacity of a  
female Hindu  
to take in  
adoption.

"8. Any female Hindu who is of sound mind and is not a minor has the capacity to take a son or daughter in adoption:

Provided that, if she has a husband living, she shall not adopt a son or daughter except with the consent of her husband unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind."

Amendment  
of section 9.

4. In the Hindu Adoptions and Maintenance Act, in section 9,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Subject to the provisions of sub-section (4), the father or the mother, if alive, shall have equal right to give a son or daughter in adoption:

Provided that such right shall not be exercised by either of them save with the consent of the other unless one of them has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.";

(ii) sub-section (3) shall be omitted.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 4th September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 4th September 2011

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

# THE INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 2010

(Act No. 32 of 2010)

*An Act further to amend the Indian Medical Council Act, 1956.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2010.

Short title and commencement.

(2) It shall be deemed to have come into force on the 15th day of the May, 2010.

102 of 1956.

2. After section 3 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

Insertion of new sections 3A, 3B and 3C.

3A. (1) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

Power of Central Government to supersede the Council and to constitute a Board of Governors.

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors

constituted under sub-section (4) shall exercise the powers and perform the functions of the Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio*, to be appointed by the Central Government, one of whom shall be named by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum for its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and the other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. During the period when the Council stands superseded,—

(a) the provisions of this Act shall be construed as if for the word "Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall—

(i) exercise the powers and discharge the functions of the Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Council shall be construed as references to the Board of Governors;

(ii) grant independently permission for establishment of new medical colleges or opening a new or higher course of study or training or increase in admission capacity in any course of study or training referred to in section 10A or giving the person or college concerned a reasonable opportunity of being heard as provided under section 10A without prior permission of the Central Government under that section, including exercise of the power to finally approve or disapprove the same; and

(iii) dispose of the matters pending with the Central Government under section 10A upon receipt of the same from it.

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Certain  
modifications  
of the Act.

Power of  
Central  
Government  
to give  
directions.

Provided that the Board of Governors or the Council after its reconstitution shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.'

Ord. 2 of 2010.

3. (1) The Indian Medical Council (Amendment) Ordinance, 2010, is hereby repealed.

Repeal and saving.

Ord. 2 of 2010. (2) Notwithstanding the repeal of the Indian Medical Council (Amendment) Ordinance, 2010, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 9th September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 8th September 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

## THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2010

(Act No. 34 of 2010)

*An Act further to amend the Mines and Minerals (Development and Regulation) Act, 1957.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2010.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

67 of 1957.

2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), after section 11, the following section shall be inserted, namely:—

Insertion of new section 11A.

'11A. The Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of an area containing coal or lignite, select, through auction by competitive bidding on such terms and conditions as may be prescribed, a company engaged in,—

Procedure in respect of coal or lignite.

(i) production of iron and steel;

(ii) generation of power;

(iii) washing of coal obtained from a mine; or

(iv) such other end use as the Central Government may, by notification in the Official Gazette, specify,



and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of coal or lignite to such company as selected through auction by competitive bidding under this section:

Provided that the auction by competitive bidding shall not be applicable to an area containing coal or lignite,—

(a) where such area is considered for allocation to a Government company or corporation for mining or such other specified end use;

(b) where such area is considered for allocation to a company or corporation that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

*Explanation.*—For the purposes of this section, “company” means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act. 1 of 1956.

Amendment of  
section 13.

3. In section 13 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(d) the terms and conditions of auction by competitive bidding for selection of the company under section 11A;”.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 9th September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 8th September 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

# THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2010

(Act No. 35 of 2010)

*An Act further to amend the Essential Commodities Act, 1955.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. This Act may be called the Essential Commodities (Amendment) Act, 2010. Short title.
2. In section 3 of the Essential Commodities Act, 1955, in sub-section (3C), the *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, Amendment of section 3 of Act 10 of 1955.  
5 the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of October, 2009, namely:—  

*‘Explanation II.*—For the removal of doubts, it is hereby declared that the expressions “fair and remunerative price” referred to in clause (a), “manufacturing cost of sugar” referred to in clause (b) and “reasonable return on the capital

employed" referred to in clause (d), of this sub-section do not include the price paid or payable under any order or any enactment of any State Government and any price agreed to between the producer and the grower or a sugarcane growers' co-operative society.'.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 22nd September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 21st September 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

# THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2010

(Act No. 36 of 2010)

*An Act further to amend the Representation of the People Act, 1950.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1950.

2. In the Representation of the People Act, 1950 (hereinafter referred to as the principal Act), after section 20, the following section shall be inserted, namely:—

Insertion of new section 20A.  
Special provisions for citizens of India residing outside India.

“20A. (1) Notwithstanding anything contained in this Act, every citizen of India,—

(a) whose name is not included in the electoral roll;

(b) who has not acquired the citizenship of any other country; and

(c) who is absenting from his place of ordinary residence in India owing to his employment, education or otherwise outside India (whether temporarily or not),

shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.

(2) The time within which the name of persons referred to in sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency."

Amendment of  
section 22.

3. In section 22 of the principal Act,—

(a) after the words "amend, transpose or delete the entry", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted;

(b) in the proviso, after the words "proposed to be taken in relation to him", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted.

Amendment of  
section 23.

4. In section 23 of the principal Act, in sub-section (2),—

(a) after the words "direct his name to be included therein", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted;

(b) in the proviso, after the words "strike off the applicant's name in that roll", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted.

Amendment of  
section 28.

5. In section 28 of the principal Act, in sub-section (2), after clause (h), the following clauses shall be inserted, namely:—

"(hh) the procedure for proper verification of facts for amending, transposing or deleting any entry in the electoral rolls, under section 22;

(hhh) the procedure for proper verification of facts for inclusion of or striking off, names in the electoral rolls, under sub-section (2) of section 23;"

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 22nd September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 21st September 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

# THE TRADE MARKS (AMENDMENT) ACT, 2010

(Act No. 40 of 2010)

*An Act to amend the Trade Marks Act, 1999.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Trade Marks (Amendment) Act, 2010.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

47 of 1999.

2. In section 11 of the Trade Marks Act, 1999 (hereinafter referred to as the principal Act), in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

Amendment  
of section 11.

“(a) a registered trade mark or an application under section 18 bearing an earlier date of filing or an international registration referred to in section 36E or convention application referred to in section 154 which has a date of application earlier than that of the trade mark in question, taking account, where appropriate, of the priorities claimed in respect of the trade marks.”.

Amendment of section 21. 3. In section 21 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any person may, within four months from the date of the advertisement or re-advertisement of an application for registration, give notice in writing in the prescribed manner and on payment of such fee as may be prescribed, to the Registrar, of opposition to the registration.”.

Amendment of section 23. 4. In section 23 of the principal Act, in sub-section (1), after the words “register the said trade mark”, the words “within eighteen months of the filing of the application” shall be inserted.

Insertion of new Chapter IVA. 5. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

#### ‘CHAPTER IVA

##### SPECIAL PROVISIONS RELATING TO PROTECTION OF TRADE MARKS THROUGH INTERNATIONAL REGISTRATION UNDER THE MADRID PROTOCOL

Application of Act in case of international registration under Madrid Protocol.  
Definitions.

36A. The provisions of this Chapter shall apply to international applications and international registrations under the Madrid Protocol.

36B. In this Chapter, unless the context otherwise requires,—

(a) “application”, in relation to a Contracting State or a Contracting Organisation, means an application made by a person who is a citizen of, or is domiciled in, or has a real and effective industrial or commercial establishment in, that Contracting State or a State which is a member of that Contracting Organisation, as the case may be.

*Explanation.*—For the purposes of this clause, “real and effective industrial or commercial establishment” means and includes any establishment where some *bona fide* industrial or commercial activity takes place and need not necessarily be the principal place of business;

(b) “basic application” means an application for the registration of a trade mark filed under section 18 and which is used as a basis for applying for an international registration;

(c) “basic registration” means the registration of a trade mark under section 23 and which is used as a basis for applying for an international registration;

(d) “Common Regulations” means the Regulations concerning the implementation of the Madrid Protocol;

(e) “Contracting Organisation” means a Contracting Party that is an inter-governmental organisation;

(f) “Contracting Party” means a Contracting State or Contracting Organisation party to the Madrid Protocol;

(g) “Contracting State” means a country party to the Madrid Protocol;

(h) “international application” means an application for international registration or for extension of the protection resulting from an international registration to any Contracting Party made under the Madrid Protocol;

(i) “International Bureau” means the International Bureau of the World Intellectual Property Organisation;

(j) "international registration" means the registration of a trade mark in the register of the International Bureau effected under the Madrid Protocol;

(k) "Madrid Agreement" means the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 14th day of April, 1891, as subsequently revised and amended;

(l) "Madrid Protocol" means the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 27th day of June, 1989, as amended from time to time.

36C. Notwithstanding anything contained in sub-section (3) of section 5, an international application shall be dealt with by the head office of the Trade Marks Registry or such branch office of the Registry, as the Central Government may, by notification in the Official Gazette, specify.

Trade Marks Registry to deal with international applications.

36D. (1) Where an application for the registration of a trade mark has been made under section 18 or a trade mark has been registered under section 23, the applicant or the registered proprietor may make an international application on the form prescribed by the Common Regulations for international registration of that trade mark.

International application originating from India.

(2) A person holding an international registration may make an international application on the form prescribed by the Common Regulations for extension of the protection resulting from such registration to any other Contracting Party.

(3) An international application under sub-section (1) or sub-section (2) shall designate the Contracting Parties where the protection resulting from the international registration is required.

(4) The Registrar shall certify in the prescribed manner that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the application under section 18 or the registration under section 23, and shall indicate the date and number of that application or the date and number of that registration as well as the date and number of the application from which that registration resulted, as the case may be, and shall within the prescribed period, forward the international application to the International Bureau for registration, also indicating the date of the international application.

(5) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the application under section 18 or the registration under section 23, as the case may be, has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration shall cease to have effect:

Provided that where an appeal is made against the decision of registration and an action requesting for withdrawal of application or an opposition to the application has been initiated before the expiry of the period of five years of an international registration, any final decision resulting into withdrawal, cancellation, expiration or refusal shall be deemed to have taken place before the expiry of five years of the international registration.

(6) The Registrar shall, during the period of five years beginning with the date of international registration, transmit to the International Bureau every information referred to in sub-section (5).

(7) The Registrar shall notify the International Bureau the cancellation to be effected to an international registration keeping in view the current status of the basic application or the basic registration, as the case may be.



International  
registrations  
where India  
has been  
designated.

36E. (1) The Registrar shall, after receipt of an advice from the International Bureau about any international registration where India has been designated, keep a record of the particulars of that international registration in the prescribed manner.

(2) Where, after recording the particulars of any international registration referred to in sub-section (1), the Registrar is satisfied that in the circumstances of the case the protection of trade mark in India should not be granted or such protection should be granted subject to conditions or limitations or to conditions additional to or different from the conditions or limitations subject to which the international registration has been accepted, he may, after hearing the applicant if he so desires, refuse grant of protection and inform the International Bureau in the prescribed manner within eighteen months from the date on which the advice referred to in sub-section (1) was received.

(3) Where the Registrar finds nothing in the particulars of an international registration to refuse grant of protection under sub-section (2), he shall within the prescribed period cause such international registration to be advertised in the prescribed manner.

(4) The provisions of sections 9 to 21 (both inclusive), 63 and 74 shall apply *mutatis mutandis* in relation to an international registration as if such international registration was an application for registration of a trade mark under section 18.

(5) When the protection of an international registration has not been opposed and the time for notice of opposition has expired, the Registrar shall within a period of eighteen months of the receipt of advice under sub-section (1) notify the International Bureau its acceptance of extension of protection of the trade mark under such international registration and, in case the Registrar fails to notify the International Bureau, it shall be deemed that the protection has been extended to the trade mark.

(6) Where a registered proprietor of a trade mark makes an international registration of that trade mark and designates India, the international registration from the date of the registration shall be deemed to replace the registration held in India without prejudice to any right acquired under such previously held registration and the Registrar shall, upon request by the applicant, make necessary entry in the register referred to in sub-section (1) of section 6.

(7) A holder of international registration of a trade mark who designates India and who has not been extended protection in India shall have the same remedy which is available to any person making an application for the registration of a trade mark under section 18 and which has not resulted in registration under section 23.

(8) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the related basic application or, as the case may be, the basic registration in a Contracting Party other than India has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration in India shall cease to have effect.

36F. (1) From the date of the international registration of a trade mark where India has been designated or the date of the recording in the register of the International Bureau about the extension of the protection resulting from an international registration of a trade mark to India, the protection of the trade mark in India shall be the same as if the trade mark had been registered in India.

(2) The indication of classes of goods and services given by the applicant shall not bind the Registrar with regard to the determination of the scope of the protection of the trade mark.

Effects of  
international  
registration.

36G. (1) The international registration of a trade mark at the International Bureau shall be for a period of ten years and may be renewed for a period of ten years from the expiry of the preceding period.

Duration and renewal of international registration.

(2) Subject to payment of a surcharge prescribed by the rules, a grace period of six months shall be allowed for renewal of the international registration.’.

6. For section 45 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 45.

“45. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application, register him as the proprietor of the trade mark in respect of the goods or services in respect of which the assignment or transmission has effect, and shall cause particulars of such assignment or transmission to be entered on the register.

Registration of assignments and transmissions.

(2) The Registrar may require the applicant to furnish evidence or further evidence in proof of title only where there is a reasonable doubt about the veracity of any statement or any document furnished.

(3) Where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the parties have been determined by a competent court and in all other cases the Registrar shall dispose of the application within the prescribed period.

(4) Until an application under sub-section (1) has been filed, the assignment or transmission shall be ineffective against a person acquiring a conflicting interest in or under the registered trade mark without the knowledge of assignment or transmission.”.

7. Chapter X of the principal Act shall be omitted.

Omission of Chapter X.

8. In section 150 of the principal Act, in sub-section (1), for the word “applications”, the words “applications, international applications” shall be substituted.

Amendment of section 150.

9. In section 157 of the principal Act, in sub-section (2), —

Amendment of section 157.

(a) for clause (vii), the following clause shall be substituted, namely:—

“(vii) the manner of giving a notice of opposition and the fee payable for such notice under sub-section (1) and sending counter-statement under sub-section (2) and submission of evidence and the time therefor under sub-section (4) of section 21;”;

(b) after clause (ix), the following clauses shall be inserted, namely:—

“(ixa) the time within which the international application is to be forwarded to the International Bureau and the manner of certifying the particulars by the Registrar under sub-section (4) of section 36D;

(ixb) the manner of keeping a record of particulars of an international registration under sub-section (1) of section 36E;

(ixc) the manner of informing the International Bureau under sub-section (2) of section 36E;

(ixd) the manner of advertising the international registration and the time within which the international registration shall be advertised under sub-section (3) of section 36E;”;

(c) after clause (xiii), the following clause shall be inserted, namely:—

“(xiiia) the period within which the Registrar shall dispose of an application under sub-section (3) of section 45;”;

(d) clauses (xxvi), (xxvii) and (xxviii) shall be omitted.

Power of  
Central  
Government  
to remove  
difficulties.

10. (1) Notwithstanding anything contained in section 156 of the principal Act, if any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing such difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Bhopal, the 23rd December 2011

No. 7461-443-XXI-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 27th September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 26th September 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

## THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

(Act No. 42 of 2010)

*An Act to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.

(2) It extends to the whole of India, and it shall also apply to—

(a) citizens of India outside India; and

Short title,  
extent,  
application  
and com-  
mencement.

(b) associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

#### Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called; 21 of 1860.

(b) “authorised person in foreign exchange” means an authorised person referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999; 42 of 1999.

(c) “bank” means a banking company as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(d) “candidate for election” means a person who has been duly nominated as a candidate for election to any Legislature;

(e) “certificate” means certificate of registration granted under sub-section (3) of section 12;

(f) “company” shall have the meaning assigned to it under clause (17) of section 2 of the Income-tax Act, 1961; 43 of 1961.

(g) “foreign company” means any company or association or body of individuals incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act, 1956; 1 of 1956.

(ii) a company which is a subsidiary of a foreign company;

(iii) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii);

(iv) a multi-national corporation.

*Explanation.*— For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,—

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

(h) “foreign contribution” means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999. 42 of 1956. 42 of 1999.

*Explanation 1.*— A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

*Explanation 2.*— The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

*Explanation 3.*— Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

(i) "foreign hospitality" means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment;

(j) "foreign source" includes,—

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

(vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—

(A) the Government of a foreign country or territory;

(B) the citizens of a foreign country or territory;

(C) corporations incorporated in a foreign country or territory;

(D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E) foreign company;

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association of individuals formed or registered outside India;

(x) a citizen of a foreign country;

(k) "Legislature" means —

(A) either House of Parliament;

(B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;

(C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963;

20 of 1963.

(D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991;

1 of 1992.

(E) Municipality as defined in clause (e) of article 243P of the Constitution;

(F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;

(G) Panchayat as defined in clause (d) of article 243 of the Constitution;  
or

(H) any other elective body as may be notified by the Central Government;

(l) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(m) "person" includes—

(i) an individual;

(ii) a Hindu undivided family;

(iii) an association;

(iv) a company registered under section 25 of the Companies Act, 1956;

1 of 1956.

(n) "political party" means—

(i) an association or body of individual citizens of India—

(A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or

43 of 1951.

(B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No.56/J&K/02, dated the 8th August, 2002, as in force for the time being;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "prescribed authority" means an authority specified as such by rules made by the Central Government under this Act;

(q) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867;

25 of 1867.

(r) "relative" has the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956;

1 of 1956.

(s) "scheduled bank" shall have the meaning assigned to it under clause (e) of section 2 of the Reserve Bank of India Act, 1934;

2 of 1934.

1 of 1956. (t) "subsidiary" and "associate" shall have the meanings, respectively assigned to them in the Companies Act, 1956;

16 of 1926. (u) "trade union" means a trade union registered under the Trade Unions Act, 1926;

43 of 1950. (2) Words and expressions used herein and not defined in this Act but defined in the  
43 of 1951. Representation of the People Act, 1950 or the Representation of the People Act, 1951 or the  
42 of 1999. Foreign Exchange Management Act, 1999 shall have the meanings respectively assigned to them in those Acts.

## CHAPTER II

### REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

3. (1) No foreign contribution shall be accepted by any—

Prohibition to accept foreign contribution.

(a) candidate for election;

(b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;

(c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;

(d) member of any Legislature;

(e) political party or office-bearer thereof;

(f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;

21 of 2000. (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 or any other mode of mass communication;

(h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

1 of 1956. *Explanation.*—In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956.

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.



(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

Persons to whom section 3 shall not apply.

4. Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10,—

(a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or

(b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

(c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or

(d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or

(e) from his relative; or

(f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or

42 of 1999.

(g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified under section 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

Procedure to notify an organisation of a political nature.

5. (1) The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:

Provided that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give the organisation in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation under sub-section (1):

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organisation as an organisation of a political nature not being a political party and make an order under sub-section (1) accordingly.

(6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2):

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

6. No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Restriction on acceptance of foreign hospitality.

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

7. No person who —

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution,

Prohibition to transfer foreign contribution to other person.

shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

8. (1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,—

Restriction to utilise foreign contribution for administrative purpose.

(a) shall utilise such contribution for the purposes for which the contribution has been received:

Provided that any foreign contribution or any income arising out of it shall not be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding fifty per cent. of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent. of such contribution may be defrayed with prior approval of the Central Government.

(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

9. The Central Government may—

(a) prohibit any person or organisation not specified in section 3, from accepting any foreign contribution;

(b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality;

Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.

(c) require any person or class of persons not specified in section 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised;

(d) without prejudice to the provisions of sub-section (1) of section 11, require any person or class of persons specified in that sub-section to obtain prior permission of the Central Government before accepting any foreign contribution;

(e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially —

(i) the sovereignty and integrity of India; or

(ii) public interest; or

(iii) freedom or fairness of election to any Legislature; or

(iv) friendly relations with any foreign State; or

(v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

Power to prohibit payment of currency received in contravention of the Act.

10. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 shall, so far as may be, apply to, or in relation to, such article or currency or security and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency or security.

37 of 1967.

### CHAPTER III

#### REGISTRATION

Registration of certain persons with Central Government.

11. (1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:

Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

49 of 1976.

(2) Every person referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after

obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source:

49 of 1976.

Provided that if the person referred to in sub-sections (1) and (2) has been found guilty of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

(3) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify—

(i) the person or class of persons who shall obtain its prior permission before accepting the foreign contribution; or

(ii) the area or areas in which the foreign contribution shall be accepted and utilised with the prior permission of the Central Government; or

(iii) the purpose or purposes for which the foreign contribution shall be utilised with the prior permission of the Central Government; or

(iv) the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government.

12. (1) An application by a person, referred to in section 11 for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.

Grant of certificate of registration.

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:

Provided that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission, it shall communicate the reasons therefor to the applicant:

Provided further that a person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:—

(a) the person making an application for registration or grant of prior permission under sub-section (1),—

(i) is not fititious or *benami*;

(ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

(iv) has not been found guilty of diversion or mis-utilisation of its funds;

(v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;

(vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;

(vii) has not contravened any of the provisions of this Act;

(viii) has not been prohibited from accepting foreign contribution;

(b) the person making an application for registration under sub-section (1) has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised;

(c) the person making an application for giving prior permission under sub-section (1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;

(d) in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;

(e) in case the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

(f) the acceptance of foreign contribution by the person referred to in sub-section (1) is not likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) the security, strategic, scientific or economic interest of the State; or

(iii) the public interest; or

(iv) freedom or fairness of election to any Legislature; or

(v) friendly relation with any foreign State; or

(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;

(g) the acceptance of foreign contribution referred to in sub-section (1),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

(5) Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:

Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005.

22 of 2005.

(6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

Suspension of  
certificate.

13. (1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

(2) Every person whose certificate has been suspended shall —

(a) not receive any foreign contribution during the period of suspension of certificate:

Provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;

(b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

14. (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if—

Cancellation of certificate.

(a) the holder of the certificate has made a statement in, or in relation to, the application of the grant of registration or renewal thereof, which is incorrect or false; or

(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or

(c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or

(e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

(2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

(3) Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

15. (1) The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under section 14 shall vest in such authority as may be prescribed.

Management of foreign contribution of person whose certificate has been cancelled.

(2) The authority referred to in sub-section (1) may, if it considers necessary and in public interest, manage the activities of the person referred to in that sub-section for such period and in such manner, as the Central Government may direct and such authority may utilise the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

(3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

16. (1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

Renewal of certificate.

(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.

#### CHAPTER IV

##### ACCOUNTS, INTIMATION, AUDIT AND DISPOSAL OF ASSETS, ETC.

17. (1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate:

Foreign contribution through scheduled bank.

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him:

Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified—

- (a) prescribed amount of foreign remittance;
- (b) the source and manner in which the foreign remittance was received;
- and
- (c) other particulars,

in such form and manner as may be prescribed.

Intimation.

18. (1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).

Maintenance of accounts.

19. Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,—

- (a) an account of any foreign contribution received by him; and
- (b) a record as to the manner in which such contribution has been utilised by him.

Audit of accounts.

20. Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

Intimation by candidate for election.

21. Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Disposal of assets created out of foreign contribution.

22. Where any person who was permitted to accept foreign contribution under this Act, ceases to exist or has become defunct, all the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force under which the person was registered or incorporated, and in the absence of any such law, the Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

## CHAPTER V

## INSPECTION, SEARCH AND SEIZURE

23. If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by— Inspection of accounts or records.

- (a) any political party; or
- (b) any person; or
- (c) any organisation; or
- (d) any association,

it may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or such other officer or authority or organisation, as it may think fit (hereinafter referred to as the inspecting officer), to inspect any account or record maintained by such political party, person, organisation or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

24. If, after inspection of an account or record referred to in section 23, the inspecting officer has any reasonable cause to believe that any provision of this Act or of any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention: Seizure of accounts or records.

Provided that the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

25. If any gazetted officer, authorised in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in sub-clause (i) of clause (h) of sub-section (1) of section 2 or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security. Seizure of article or currency or security received in contravention of the Act.

26. (1) The Central Government, may, having regard to the value of article or currency or security, their vulnerability to theft or any relevant consideration, by notification, specify such article or currency or security which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure hereinafter specified. Disposal of seized article or currency or security.

(2) The article or currency or security seized shall be forwarded without unnecessary delay to such officer as may be specified.

(3) Where any article or currency or security has been seized and forwarded to such officer, the officer referred to in sub-section (1), shall prepare an inventory of such article or currency or security containing such details relating to their description, value or such other identifying particulars as the officer referred to in that sub-section may consider relevant to the identity of the article or the currency or security and make an application to any Magistrate for the purposes of certifying the correctness of the inventory so prepared.

(4) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.

(6) Every officer acting under sub-section (3) shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under section 29.



Seizure to be made in accordance with Act 2 of 1974.

27. The provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

## CHAPTER VI

### ADJUDICATION

Confiscation of article or currency or security obtained in contravention of the Act.

28. Any article or currency or security which is seized under section 25 shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

Adjudication of confiscation.

29. (1) Any confiscation referred to in section 28 may be adjudged—

(a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and

(b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) When an adjudication under sub-section (1) is concluded by the Court of Session or Assistant Sessions Judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

Procedure for confiscation.

30. No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

## CHAPTER VII

### APPEAL AND REVISION

Appeal.

31. (1) Any person aggrieved by any order made under section 29 may prefer an appeal,—

(a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or

(b) where the order has been made by any officer specified under clause (b) of sub-section (1) of section 29, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

(2) Any organisation referred to in clause (f) of sub-section (1) of section 3, or any person or association referred to in section 6 or section 9, aggrieved by an order made in pursuance of section 5 or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under sub-section (2) or sub-section (4) of section 12, or sub-section (1) of section 14, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the High Court

within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

5 of 1908.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

32. (1) ~~The Central Government may, either of its own motion or on an application for~~ Revision of orders by Central Government.  
revision by the person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.

(2) The Central Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the person referred to in sub-section (1), the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal or an appeal has been filed under this Act.

(5) Every application by such person for revision under this section shall be accompanied by such fee, as may be prescribed.

*Explanation.*—An order by the Central Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such person.

## CHAPTER VIII

### OFFENCES AND PENALTIES

33. Any person, subject to this Act, who knowingly, —

- (a) gives false intimation under sub-section (c) of section 9 or section 18; or
- (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact,

Making of false statement, declaration or delivering false accounts.

shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.

2 of 1974.

34. If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

Penalty for article or currency or security obtained in contravention of section 10.

Punishment for contravention of any provision of the Act.

35. Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Power to impose additional fine where article or currency or security is not available for confiscation.

36. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act. 2 of 1974.

Penalty for offences where no separate punishment has been provided.

37. Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

Prohibition of acceptance of foreign contribution.

38. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

Offences by companies.

39. (1) Where an offence under this Act or any rule or order made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) “director”, in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

Bar on prosecution of offences under the Act.

40. No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

Composition of certain offences.

41. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf. 2 of 1974.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

*Explanation.*— For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

## CHAPTER IX

### MISCELLANEOUS

42. Any inspecting officer referred to in section 23 who is authorised in this behalf by the Central Government may, during the course of any inspection of any account or record maintained by any political party, person, organisation or association in connection with the contravention of any provision of this Act; —

Power to call for information or document.

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to such inspection;

(c) examine any person acquainted with the facts and circumstances of the case related to the inspection.

2 of 1974.

43. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

Investigation into cases under the Act.

44. The prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed.

Returns by prescribed authority to Central Government.

45. No suit or other legal proceedings shall lie against the Central Government or the authority referred to in section 44 or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

Protection of action taken in good faith.

Power of  
Central  
Government to  
give directions.

46. The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

Delegation of  
powers.

47. The Central Government may, by notification, direct that any of its powers or functions under this Act, except power to make rule under section 48, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified.

Power to  
make rules.

48. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the value of the article which may be specified under sub-clause (i) of clause (h) of sub-section (1) of section 2;

(b) the authority which may be specified under clause (p) of sub-section (1) of section 2;

(c) acceptance or retention of gift or presentation under clause (d) of section 4;

(d) guidelines specifying the ground or grounds on which an organisation may be specified as an organisation of political nature under sub-section (1) of section 5;

(e) the activities or business which shall be construed as speculative business under the proviso to clause (a) of sub-section (1) of section 8;

(f) the elements and the manner in which the administrative expenses shall be calculated under sub-section (2) of section 8;

(g) the time within which and the manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under clause (c) of section 9;

(h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause (e) of section 9;

(i) the manner in which the copy of the order of the Central Government shall be served upon any person under section 10;

(j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under sub-section (1) of section 12;

(k) the fee to be accompanied by the application under sub-section (1) of section 12;

(l) the terms and conditions for granting a certificate or giving prior permission under clause (g) of sub-section (4) of section 12;

(m) the manner of utilising the foreign contribution under clause (b) of sub-section (2) of section 13;

(n) the authority with whom the foreign contribution to be vested under sub-section (1) of section 15;

(o) the period within which and the manner in which the foreign contribution shall be managed under sub-section (2) of section 15;

(p) the form and manner in which the application for a renewal of certificate of registration shall be made under sub-section (2) of section 16;

(q) the fee to be accompanied by the application for renewal of certificate under sub-section (2) of section 16;

(r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every bank or authorised person in foreign exchange shall be reported under sub-section (2) of section 17;

(s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under section 18;

(t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under section 19;

(u) the time within which and the manner in which a candidate for election shall give intimation under section 21;

(v) the manner and procedure to be followed in disposing of the assets under section 22;

(w) the limits subject to which any confiscation may be adjudged under clause (b) of sub-section (1) of section 29;

(x) the fee to be accompanied along with every application for revision under sub-section (5) of section 32;

(y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-section (4) of section 41;

(z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under section 44;

(za) any other matter which is required to be, or may be, prescribed.

**49.** Every order made under section 5 and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

Orders and rules to be laid before Parliament.

**50.** If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

Power to exempt in certain cases.

**51.** Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Act not to apply to certain Government transactions.

**52.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

**53. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and  
saving.

54. (1) The Foreign Contribution (Regulation) Act, 1976 (hereafter referred to as the repealed Act) is hereby repealed. 49 of 1976.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any organisation of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organisation of a political nature, not being a political party, under clause (f) of sub-section (1) of section 3 of this Act, till such permission is withdrawn by the Central Government;

(c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under section 6 of this Act until such permission is withdrawn by the Central Government;

(d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;

(e) permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;

(f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;

(g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.

(3) Save as provided in sub-section (2), mention of particular matters in that sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

10 of 1897.

Bhopal, the 23rd December 2011

No. 7461-443-XX1-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section I, dated the 27th September 2011 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 26th September 2011.

By order and in the name of the Governor of Madhya Pradesh,  
RAJESH YADAV, Addl. Secy.

# THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT) ACT, 2010

(Act No. 43 of 2010)

*An Act further to amend the Indian Medicine Central Council Act, 1970.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medicine Central Council (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

48 of 1970.

2. In the Indian Medicine Central Council Act, 1970 (hereinafter referred to as the principal Act), in section 2, in clause (e), for the words "or Unani Tibb", the words ", Unani Tibb or Sowa-Rigpa" shall be substituted. Amendment of section 2.

3. In the principal Act, in section 3,—

(a) for the words "and Unani" wherever they occur, the words ", Unani and Sowa-Rigpa" shall be substituted; and

(b) for the words "or Unani", the words ", Unani or Sowa-Rigpa" shall be substituted. Amendment of section 3.



Amendment  
of section 8.

4. In section 8 of the principal Act, in the proviso to sub-section (2), for the words "or Unani", the words ", Unani or Sowa-Rigpa" shall be substituted.

Amendment  
of section 9.

5. In section 9 of the principal Act,—

(A) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Council shall constitute from amongst its members,—

(a) a committee for Ayurveda;

(b) a committee for Siddha;

(c) a committee for Unani; and

(d) a committee for Sowa-Rigpa,

and each such committee shall consist of members elected under clause (a) or clause (b) or nominated under clause (c) of sub-section (1) of section 3 representing the Ayurveda, Siddha, Unani or Sowa-Rigpa system of medicine, as the case may be.";

(B) in sub-section (2), for the words "and Unani", the words ", Unani and Sowa-Rigpa" shall be substituted;

(C) in sub-section (3), for the words "or Unani", the words ", Unani or Sowa-Rigpa" shall be substituted.

Amendment  
of section 17.

6. In section 17 of the principal Act, in sub-section (2), in clause (a), for the words "physician or", the words "physician or Amchi or" shall be substituted.

Amendment  
of First  
Schedule.

7. In the First Schedule to the principal Act, in paragraph 1, for the words "and Unani", the words ", Unani and Sowa-Rigpa" shall be substituted.

## भाग ४ (ग)

## प्रारूप नियम

## किसान कल्याण तथा कृषि विकास विभाग

मंत्रालय, वल्लभ भवन, भोपाल

## सूचना

भोपाल, दिनांक 23 दिसम्बर 2011

क्र. डी-15-13-08-चौदह-3.—मध्यप्रदेश कृषि उपज मण्डी अधिनियम, 1972 (क्रमांक 24 सन् 1973) की धारा 79 की उपधारा (1) तथा उपधारा (2) के खण्ड (बत्तीस) के साथ पठित धारा 11 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, राज्य सरकार, एतद्वारा, निम्नलिखित नियम, जिन्हें उक्त अधिनियम की धारा 79 की उपधारा (1) द्वारा अपेक्षित किये गये अनुसार पूर्व में ही प्रकाशित किया जा चुका है, बनाती है अर्थात्:—

## नियम

1. **संक्षिप्त नाम.**—इन नियमों का संक्षिप्त नाम मध्यप्रदेश कृषि उपज मण्डी (लोक सभा तथा विधान सभा सदस्य की मण्डी समिति में सदस्यता तथा प्रतिनिधि का नामनिर्देशन) नियम, 2010 है.

2. **परिभाषाएं.**—(1) इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—

- (क) “अधिनियम” से अभिप्रेत है, मध्यप्रदेश कृषि उपज मण्डी अधिनियम, 1972 (क्रमांक 24 सन् 1973);
- (ख) “प्रारूप” से अभिप्रेत है, इन नियमों से संलग्न प्रारूप;
- (ग) “मण्डी समिति” से अभिप्रेत है, अधिनियम की धारा 11 के अधीन गठित समिति;
- (घ) “सम्मिलन” से अभिप्रेत है, मण्डी समिति का सम्मिलन;
- (ङ) “प्रतिनिधि” से अभिप्रेत है, अधिनियम की धारा 11 की उपधारा (1) के खण्ड (घ) के अधीन लोक सभा या राज्य की विधान सभा के किसी सदस्य द्वारा, मण्डी समिति में अपना प्रतिनिधित्व करने के लिए नामनिर्दिष्ट कोई व्यक्ति;
- (च) “धारा” से अभिप्रेत है, अधिनियम की धारा;
- (छ) “मतदाता सूची” से अभिप्रेत है, मण्डी समिति के किसी निर्वाचन क्षेत्र की निर्वाचक नामावली या मतदाताओं की, की सूची.

(2) उन शब्दों और अभिव्यक्तियों के, जो इन नियमों में प्रयुक्त हुए हैं, किन्तु परिभाषित नहीं हैं, वही अर्थ होंगे जो अधिनियम में उनके लिए दिए हैं.

3. **लोक सभा सदस्य द्वारा प्रतिनिधि की सदस्यता तथा नामनिर्देशन के लिए मण्डी समिति का चयन.**—(1) कलक्टर, अपने जिले की मण्डी समितियों के अध्यक्ष तथा सदस्यों के निर्वाचन के परिणाम की घोषणा होने के पश्चात्, यथाशक्यशीघ्र, लोक सभा के ऐसे सदस्य को जिसके निर्वाचन क्षेत्र में,—

- (एक) अंतिम जनगणना के प्रकाशित आंकड़ों के अनुसार कम से कम पचास प्रतिशत जनसंख्या ग्रामीण क्षेत्रों में निवास करती हो; और
- (दो) एक से अधिक मण्डी समितियां हैं, यह अनुरोध करते हुए प्रारूप-1 में पत्र जारी करेगा कि—
  - (क) उस मण्डी समिति के लिए, जिसका कि वह सदस्य होने की वांछा करता है, प्रारूप 2 में, विकल्प दे जो पत्र के साथ संलग्न किया जाएगा; और

(ख) यदि वह ऐसी वांछा करें, तो किसी ऐसे व्यक्ति को, जो इस प्रकार चयनित समिति के सम्मिलन में, उपस्थित होने के प्रयोजन के लिए, उसके प्रतिनिधि के रूप में, जो नियम 5 में विहित अर्हता रखता है, प्ररूप 4 में, जो पत्र के साथ संलग्न किया जाएगा, नामनिर्दिष्ट करें.

(2) लोक सभा के सदस्य से उपनियम (1) के अधीन विकल्प/प्रतिनिधि/का नामनिर्देशन प्राप्त हो जाने पर, कलक्टर, संबंधित मण्डी समिति के सचिव को उसकी एक प्रामाणिक प्रति अग्रेषित करेगा.

4. **राज्य विधान सभा सदस्य द्वारा प्रतिनिधि का नामनिर्देशन.**—(1) कलक्टर, अपने जिले की मण्डी समिति के अध्यक्ष तथा सदस्यों के निर्वाचन का परिणाम की घोषणा होने के पश्चात्, यथाशक्यशीघ्र, विधान सभा के ऐसे सदस्य को जिसके निर्वाचन क्षेत्र में अंतिम जनगणना के प्रकाशित आंकड़ों के अनुसार कम से कम पचास प्रतिशत जनसंख्या ग्रामीण क्षेत्रों में निवास करती है, उससे यह अनुरोध करने के लिए प्ररूप 3 में पत्र जारी करेगा कि यदि वह ऐसी वांछा करे तो किसी ऐसे व्यक्ति को जो मण्डी समिति के सम्मिलन में उपस्थित होने के प्रयोजन के लिए उसके प्रतिनिधि के रूप में जो नियम 5 में विहित अर्हता रखता है, प्ररूप 4 में, जो पत्र के साथ संलग्न किया जाएगा, नामनिर्दिष्ट करें.

(2) राज्य विधान सभा से उपनियम (1) के अधीन प्रतिनिधि के रूप में नामनिर्देशन प्राप्त होने जाने पर, कलक्टर संबंधी मण्डी समिति के सचिव को उसकी एक प्रामाणिक प्रति अग्रेषित करेगा.

5. **प्रतिनिधि के लिए अर्हताएं.**—(1) कोई व्यक्ति नियम 3 या नियम 4 के अधीन प्रतिनिधि के रूप में नामनिर्दिष्ट किए जाने के लिए अर्हित होगा यदि:—

- (क) उसका नाम संबंधित मण्डी समिति की मतदाता सूची में सम्मिलित है;
- (ख) वह मण्डी समिति का अध्यक्ष या सदस्य निर्वाचित होने के लिये अर्हित है;
- (ग) वह मण्डी समिति के साथ, उसके द्वारा या उसकी ओर से किये गये किसी अनुबंध, संविदा या नियोजन में कोई प्रत्यक्ष या अप्रत्यक्ष धन-संबंधी हित नहीं रखता है; और
- (घ) वह मण्डी समिति के किन्ही शोध्यों का व्यतिक्रमी नहीं है.

(2) किसी प्रतिनिधि की अर्हता से संबंधित कोई भी आपत्ति कलक्टर को निर्दिष्ट की जाएगी और यदि उसकी जांच की जाने पर कलक्टर यह पाता है कि ऐसा व्यक्ति नाम-निर्देशन का हकदार नहीं था तो उसका नाम-निर्देशन स्वतः ही समाप्त हो गया समझा जाएगा.

6. **प्रतिनिधि की स्थिति.**—(1) प्रतिनिधि सम्मिलन में होने वाली चर्चा में भाग लेने और अपने विचार व्यक्त करने का हकदार होगा किन्तु वह किसी विषय पर मत देने का हकदार नहीं होगा.

(2) प्रतिनिधि किसी सम्मिलन में उपस्थित होने के लिए मण्डी समिति से कोई यात्रा भत्ता, मानदेय या किसी प्रकार की फीस प्राप्त करने का हकदार नहीं होगा.

(3) प्रतिनिधि सम्मिलन की कार्यवाहियों में किसी प्रकार का व्यवधान कारित नहीं करेगा और सम्मिलन के अध्यक्ष के निदेश का पालन करेगा.

(4) नियम 3 एवं 4 के उपबंधों के अधधीन रहते हुए, लोक सभा सदस्य या विधान सभा सदस्य, किसी भी समय पूर्व में नाम-निर्दिष्ट प्रतिनिधि के स्थान पर, नया प्रतिनिधि नाम-निर्दिष्ट कर सकेगा.

7. **निरसन तथा व्यावृत्ति.**—इन नियमों के प्रारम्भ होने की तारीख से मध्यप्रदेश कृषि उपज मण्डी (विधान सभा सदस्य की मण्डी समिति के गठन में सदस्यता) नियम, 1975 निरसित हो जाएगा:

परन्तु इस प्रकार निरसित नियमों के अधधीन की गई कोई कार्रवाई, जब तक कि ऐसी कार्रवाई इन नियमों के किसी उपबंध से असंगत न हो, इन नियमों के तत्स्थानी उपबंध के अधधीन की गई कार्रवाई समझी जाएगी.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,  
हेमराज सिंह, अवर सचिव.

भोपाल, दिनांक 23 दिसम्बर 2011

पृ. क्र. डी-15-13-08-चौदह-3.—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, इस विभाग की समसंख्यक अधिसूचना दिनांक 23 दिसम्बर 2011 का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है।

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,  
हेमराज सिंह, अवर सचिव.

प्ररूप-1  
(नियम 3 देखिए)

पत्र क्रमांक

दिनांक . . . . .

द्वारा

स्थान . . . . .

प्रति,

कलक्टर,

जिला . . . . .

प्रति,

श्री . . . . .

लोक सभा सदस्य

. . . . .

. . . . .

महोदय,

आपके निर्वाचन क्षेत्र जिला . . . . . के अन्तर्गत निम्नलिखित मण्डी समितियां आती हैं, अर्थात्:—

- |                           |                           |
|---------------------------|---------------------------|
| (1) मण्डी समिति . . . . . | (2) मण्डी समिति . . . . . |
| (3) मण्डी समिति . . . . . | (4) मण्डी समिति . . . . . |
| (5) मण्डी समिति . . . . . | (6) मण्डी समिति . . . . . |
| (7) मण्डी समिति . . . . . | (8) मण्डी समिति . . . . . |

मध्यप्रदेश कृषि उपज मण्डी अधिनियम, 1972 (क्रमांक 24 सन् 1973) की धारा 11 की उपधारा (1) के खण्ड (घ) के उपबंधों के अनुसार, आप अपने निर्वाचन क्षेत्र की मण्डी समितियों में से केवल एक के सदस्य हो सकते हैं। अतएव, आपसे अनुरोध है कि आप कृपया इस बारे में मुझे अपने विकल्प की सूचना, संलग्न प्ररूप-2 में दें।

2. यदि आप अपनी अनुपस्थिति में, मण्डी समिति में अपने प्रतिनिधि के रूप में किसी व्यक्ति को नामनिर्दिष्ट करने के इच्छुक हैं तो कृपया उसका नामनिर्देशन संलग्न प्ररूप-4 में भेजें।

3. आपकी सुविधा के लिए, प्रतिनिधि नाम-निर्दिष्ट किए जाने के लिए विहित अर्हताओं से संबंधित मण्डी अधिनियम की धारा 11 तथा सुसंगत नियम का उद्धरण इसके साथ संलग्न है।

संलग्नक—यथा उपरोक्त

भवदीय

( . . . . . )

कलक्टर . . . . .

मुद्रा

## प्ररूप-1—का संलग्नक

## उद्धरण

## 1. मण्डी अधिनियम की धारा 11 की उपधारा ( 1 ) के खण्ड ( घ ) का उद्धरण

“11 मण्डी समिति का गठन

(1) मण्डी समिति में निम्नलिखित होंगे:—

(क) . . . . .

(ख) . . . . .

(ग) . . . . .

(घ) राज्य की विधान सभा तथा लोक सभा के ऐसे सदस्य, जिनके निर्वाचन क्षेत्र की कम से कम पचास प्रतिशत जनसंख्या ग्रामीण क्षेत्रों में निवास करती है जो किसी नगरपालिका निगम, नगरपालिका परिषद् या नगर पंचायत की स्थानीय सीमाओं के बाहर है:

परन्तु ऐसे निर्वाचन क्षेत्र में जहां एक से अधिक मण्डी समितियां विद्यमान हैं, वहां लोक सभा सदस्य अपना विकल्प निर्वाचन के पूर्व देगा कि वह ऐसी मण्डी समितियों में से एक मण्डी समिति में सदस्य होने का इच्छुक है:

परन्तु यह और कि लोक सभा का सदस्य या राज्य विधान सभा का सदस्य जो मण्डी समिति का सदस्य है, अपने प्रतिनिधि को जो ऐसी अर्हता रखता हो, जैसी कि विहित की जाए, मण्डी समिति के सम्मिलन में उपस्थित होने के प्रयोजन के लिए नामनिर्देशित कर सकेगा.

2. मध्यप्रदेश कृषि उपज मण्डी समिति ( लोक सभा तथा विधान सभा सदस्य की मण्डी समिति में सदस्यता तथा प्रतिनिधि का नामनिर्देशन ) नियम, 2010 के नियम 5 के उद्धरण

“5 प्रतिनिधि के लिए अर्हताएं:

(1) कोई व्यक्ति नियम 3 या नियम 4 के अधीन प्रतिनिधि के रूप में नामनिर्दिष्ट किए जाने के लिए अर्ह होगा, यदि—

(क) उसका नाम संबंधित मण्डी समिति की मतदाता सूची में सम्मिलित है;

(ख) वह मण्डी समिति का अध्यक्ष या सदस्य निर्वाचित होने के लिए अर्हित है;

(ग) वह मण्डी समिति के साथ, उसके द्वारा या उसकी ओर से किए गए किसी अनुबंध, संविदा या नियोजन में कोई प्रत्यक्ष या अप्रत्यक्ष धन संबंधी हित नहीं रखता है;

(घ) वह मण्डी समिति के किन्हीं शोध्यों का व्यतिक्रमी नहीं है.

(2) किसी प्रतिनिधि की अर्हता के संबंध में कोई भी आपत्ति कलक्टर को निर्दिष्ट की जाएगी और यदि उसकी जांच की जाने पर कलक्टर यह पाता है कि ऐसा व्यक्ति नामनिर्देशन के लिए हकदार नहीं था तो उसका नामनिर्देशन स्वतः ही समाप्त हो गया समझा जाएगा.”.

**प्ररूप-2**  
(नियम 3 देखिए)

पत्र क्रमांक

दिनांक . . . . .

द्वारा

स्थान . . . . .

प्रति,

श्री . . . . .

लोक सभा सदस्य

. . . . .

. . . . .

प्रति,

कलक्टर

जिला . . . . .

**विषय:—**मण्डी समिति की सदस्यता के संबंध में विकल्प.

महोदय,

मैं, एतद्वारा, मेरे निर्वाचन क्षेत्र में स्थित मण्डी समिति . . . . . का सदस्य होने का विकल्प देता हूँ.

भवदीय

हस्ताक्षर . . . . .

(नाम . . . . .)

सदस्य (लोक सभा)

निर्वाचन क्षेत्र का नाम . . . . .

**प्ररूप-3**  
(नियम 4 देखिए)

पत्र क्रमांक

दिनांक . . . . .

द्वारा

स्थान . . . . .

प्रति,

कलक्टर,

जिला . . . . .

प्रति,

श्री . . . . .

विधान सभा सदस्य/

. . . . .

. . . . .

महोदय,

आपके निर्वाचन क्षेत्र जिला . . . . . के अन्तर्गत निम्नलिखित मण्डी समितियां आती हैं, अर्थात्:—

- (1) मण्डी समिति . . . . . (2) मण्डी समिति . . . . .

(3) मण्डी समिति ..... (4) मण्डी समिति .....

मध्यप्रदेश कृषि उपज मण्डी अधिनियम, 1972 (क्रमांक 24 सन् 1973) की धारा 11 की उपधारा (1) के खण्ड (घ) के उपबंधों के अनुसार, आप अपने निर्वाचन क्षेत्र की समस्त मण्डी समितियों के पदेन सदस्य हैं.

2. यदि आप अपनी अनुपस्थिति में, किसी मण्डी समिति के सम्मिलनों भाग लेने के लिए किसी व्यक्ति को अपने प्रतिनिधि के रूप में नामनिर्दिष्ट करने के इच्छुक हैं तो कृपया उसका नामनिर्देशन संलग्न प्ररूप-4 में भेजें. आपसे यह भी अनुरोध है कि प्रत्येक मण्डी समिति के लिए पृथक् प्ररूप (प्ररूप-4) का उपयोग करें.

3. आपकी सुविधा के लिए, प्रतिनिधि नाम-निर्दिष्ट किए जाने वाले प्रतिनिधि के लिए विहित अर्हता से संबंधित सुसंगत नियम का उद्धरण इसके साथ संलग्न है.

संलग्नक—यथा उपरोक्त

भवदीय

( . . . . . )

कलक्टर . . . . .

मुद्रा

प्ररूप-3—का संलग्नक

उद्धरण

मध्यप्रदेश कृषि उपज मण्डी ( लोक सभा तथा विधान सभा सदस्य की सदस्यता तथा प्रतिनिधि का नामनिर्देशन ) नियम, 2010 के नियम 5 का उद्धरण

“5 प्रतिनिधि के लिए अर्हताएं:

- (1) कोई व्यक्ति नियम 3 या नियम 4 के अधीन प्रतिनिधि के रूप में नामनिर्दिष्ट किए जाने के लिए अर्हित होगा, यदि:
  - (क) उसका नाम संबंधित मण्डी समिति की मतदाता सूची में सम्मिलित है;
  - (ख) वह मण्डी समिति के अध्यक्ष या सदस्य के रूप में निर्वाचित होने के लिए अर्हित है;
  - (ग) वह मण्डी समिति के साथ, उसके द्वारा या उसकी ओर से किए गए किसी अनुबंध, संविदा या नियोजन में कोई प्रत्यक्ष या अप्रत्यक्ष धन संबंधी हित नहीं रखता है; और
  - (घ) वह मण्डी समिति के किन्हीं शोध्यों का व्यतिक्रमी नहीं है.
- (2) प्रतिनिधि की अर्हता के संबंध में कोई भी आपत्ति कलक्टर को निर्दिष्ट की जाएगी और यदि उसकी जांच की जाने पर कलक्टर यह पाता है कि ऐसा व्यक्ति नामनिर्देशन के लिए हकदार नहीं था तो उसका नामनिर्देशन स्वतः ही समाप्त हो गया समझा जाएगा.”.

प्ररूप-4  
(नियम 3 तथा नियम 4 देखिए)

पत्र क्रमांक . . . . .

दिनांक . . . . .

द्वारा

स्थान . . . . .

श्री . . . . .

लोक सभा सदस्य,/

राज्य विधान सभा सदस्य,

. . . . .

प्रति,

कलक्टर,

. . . . .

विषय:—मण्डी समिति के सम्मिलनों में भाग लेने के लिये प्रतिनिधि का नामनिर्देशन.

महोदय,

मैं, मेरे निर्वाचन क्षेत्र की मण्डी समिति . . . . . जिसका कि सदस्य होने के लिये मैंने मध्यप्रदेश कृषि उपज मण्डी अधिनियम, 1972 (क्रमांक 24 सन् 1973) की धारा 11 की उपधारा (1) के खण्ड (घ) के अधीन विकल्प दिया है, के सम्मिलनों में भाग लेने के लिए एतद्वारा निम्नलिखित व्यक्ति को, जिसका कि अनुप्रमाणित फोटो संलग्न है अपने प्रतिनिधि के रूप में नामनिर्दिष्ट करता हूँ.

श्री . . . . . आत्मज श्री . . . . . आयु . . . . वर्ष . . . .

निवासी . . . . . डाक का पता . . . . .

2. मेरी सर्वोत्तम जानकारी और विश्वास के अनुसार, उपरोक्त व्यक्ति, मध्यप्रदेश कृषि उपज मण्डी (लोक सभा तथा विधान सभा सदस्य की मण्डी समिति में सदस्यता तथा प्रतिनिधि का नामनिर्देशन) नियम, 2010 के नियम 5 के अधीन नामनिर्देशन के लिए अर्ह है.

भवदीय

हस्ताक्षर . . . . .

नाम . . . . .

लोक सभा सदस्य/राज्य विधान सभा

सदस्य . . . . .

निर्वाचन क्षेत्र का नाम . . . . .

सदस्य द्वारा

नामनिर्दिष्ट

प्रतिनिधि

का अनुप्रमाणित

पासपोर्ट आकार का

फोटो.



Bhopal, the 23rd December 2011

## NOTICE

No. D-15-13-08-XIV-3.—In exercise of the powers conferred by sub-section (1) and clause (xxxii) of sub-section (2) of Section 79 read with clause (d) of sub-section (1) of Section 11 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973) the State Government hereby makes the following rules the same have been previously published as required by sub-section (1) of Section 79 of the said Section, namely:—

## RULES

1. **Short title.**—These rules may be called the Madhya Pradesh Krishi Upaj Mandi (Lok Sabha Tatha Vidhan Sabha Sadasya Ki Mandi Samiti Me Sadasyata Tatha Pratinidhi Ka Namnirdeshan) Niyam, 2010.

2. **Definition.**—(1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973);
- (b) “Form” means form appended to these rules;
- (c) “Market Committee” means a committee constituted under Section 11 of the Act;
- (d) “Meeting” means a meeting of the Market Committee;
- (e) “Representative” means the person nominated by a member of the House of People or the Legislative Assembly of the State under clause (d) of sub-section (1) of Section 11 of the Act to represent him in the Market Committee;
- (f) “Section” means the Section of the Act;
- (g) “Voter List” means the electoral roll or the list of voters of a constituency of Market Committee.

(2) The words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Act.

3. **Selection of market committee by the Member of the House of People for membership and nomination of representative.**—(1) The Collector shall, as soon as possible, after the declaration of the result of election of Chairman and Members of Market Committees of his District, issue a letter in Form 1, to a member of the House of the People, in whose constituency:—

- (i) at least fifty percent population as per the published figures of last census resides in rural areas; and
- (ii) there is more than one market committee, to request him—
  - (a) to give an option for the market committee of which he desires to be a member in Form 2, which shall be appended with the letter; and
  - (b) to nominate, if he so desires, any such person, who possess qualification prescribed in rule 5 as his representative for the purpose of attending the meeting of the committee so selected, in Form 4, which shall be appended with the letter.

(2) On receipt of the option/nomination of the representative under sub-rule (1) from the member of the House of People, the Collector shall forward an authentic copy thereof to the Secretary of the market committee concerned.

4. **Nomination of representative by Member of State Legislative Assembly.**—(1) The Collector shall as soon as possible, after the declaration of the result of election of Chairman and members of market committee of

his District, issue a letter in Form 3 to a Member of the State Legislative Assembly, in whose constituency at least fifty percent population as per the published figures of last census, resides in rural areas, to request him to nominate, if he, so desires, any such person, who possesses qualification prescribed in rule 5 as his representative for the purpose of attending the meeting of market committee in Form 4, which shall be appended with the letter.

(2) On receipt of the nomination of the representative under sub-rule (1) from the Member of the State Legislative Assembly, the Collector shall forward an authentic copy thereof of the Secretary of the market committee concerned.

**5. Qualifications for the Representative.**—(1) A person shall be qualified to be nominated as representative under rule 3 or rule 4 if,—

- (a) his name is included in the voter list of the market committee concerned;
- (b) he is qualified to be elected a chairman or member of the market committee;
- (c) he has no direct or indirect pecuniary interest in any agreement, contract or employment with by or on behalf of the market committee; and
- (d) he is not a defaulter of any dues of the market committee.

(2) Any objection relating to the qualification of a representative shall be referred to the Collector and if upon enquiry thereon, the Collector finds that such person was not entitled for nomination, his nomination shall be deemed to have ceased automatically.

**6. The position of representative.**—(1) The representative shall be entitled to participate in the discussion and express his views in the meeting but shall not be entitled to vote on any issue.

(2) The representative shall not be entitled to receive any traveling allowance, honorarium or any kind of fee from the market committee for attending any meeting.

(3) The representative shall not cause any obstruction in the proceedings of the meeting and shall comply with the direction of the Chairperson of the meeting

(4) Subject to the provisions of rule 3 and 4, the member of the House of People or the Member of State Legislative Assembly may, nominate any time, a new representative in place of the representative nominated earlier.

**7. Repeal and Saving.**—As from the date of commencement of these rules, the Madhya Pradesh Krishi Upaj Mandi (Vidhan Sabha Sadasya Ke Mandi Samiti Ke Gathan Mein Sadasyata) Niyam, 1975 shall stand repealed :

Provided that any action taken under the rules so repealed, shall unless such action is inconsistent with any provision of these rules, be deemed to have been taken under the corresponding provision of these rules.

By order and in the name of the Governor of Madhya Pradesh,

HEMRAJ SINGH, Under Secy.

FORM-1  
(See rule 3)

Letter No. ....

Date .....

Place .....

From :

Collector

District .....

To,

Shri .....

Member of the House of People (Lok Sabha)

.....  
.....

Sir,

Your constituency has the following Marketing Committees in District ..... namely:

- |                            |                            |
|----------------------------|----------------------------|
| (1) Market Committee ..... | (2) Market Committee ..... |
| (3) Market Committee ..... | (4) Market Committee ..... |
| (5) Market Committee ..... | (6) Market Committee ..... |
| (7) Market Committee ..... | (8) Market Committee ..... |

As per the provisions of clause (d) of sub-section (1) of Section 11 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973), you can be a member of only one of the market committee of your Constituency. You are, therefore, requested to please inform me of your option in this regard in the attached Form 2.

2. In case you desire to nominate any person as your representative of the market committee in the event of your absence, then please send his nomination in the attached Form 4.

3. For your convenience, the extract of Section 11 of the Mandi Act and the relevant rule relating to qualifications prescribed for the representative to be nominated are appended herewith.

Yours faithfully,

Enclosures-As above

(.....)  
Collector .....

Seal

ATTACHMENT OF FORM-1

EXTRACT

**1. Extract of clause (d) of sub-section (1) of Section 11 of Mandi Act**

**11. Constitution of Market Committee**

(1) A Market Committee shall consist of—

- (a) .....  
(b) .....  
(c) .....

(d) Such member of the State Legislative Assembly and House of the People in whose constituency at least fifty percent of population resides in rural areas, that is, outside the local limits of a Municipal Corporation, Municipal Council or Nagar Panchayat:

Provided that a constituency where more than one market committee exists the member of the House of People shall have to give his option before the election, one of the market committees in which he wishes to become a member:

Provided further that the member of the House of People or the member of the State Legislative Assembly who is a member of the market committee may nominate his representative who possess such qualification as may be prescribed for the purpose of attending the meeting of the market committee.

**2. Extracts of rule 5 of the Madhya Pradesh Krishi Upaj Mandi (Lok Sabha Tatha Vidhan Sabha Sadasya Ki Mandi Samiti Mein Sadasyata Tatha Pratinidhi Ka Namnirdeshan) Niyam, 2010**

“5. Qualifications for the representative:

(1) A person shall be qualified to be nominated as representative under rule 3 or rule 4, if—

- (a) his name is included in the voter list of the market committee concerned;
- (b) he is qualified to be elected as Chairman or a member of the market committee;
- (c) he has no direct or indirect pecuniary interest in any agreement, contract or employment with by or on behalf of the market committee;
- (d) he is not a defaulter of any dues of the market committee.

(2) Any objection relating to the qualification of a representative shall be referred to the Collector and if upon enquiry thereon, the Collector finds that such person was not, entitled for nomination, his nomination shall be deemed to have ceased automatically.”.

**FORM-2**  
**(See rule 3)**

Letter No. . . . .

Date . . . . .

Place . . . . .

From :

Shri . . . . .  
Member of House of the People (Lok Sabha)  
. . . . .  
. . . . .

To,

Collector  
District . . . . .

Subject:—Option relating to membership of market committee.

Sir,

I, hereby, opt to be a member of market committee . . . . . situated in my Constituency.

Yours faithfully,

Signature . . . . .  
Name . . . . .  
Member of House of the People  
(Lok Sabha)  
Name of the Constituency . . . . .

FORM-3  
(See rule 4)

Letter No. ....

Date .....

Place .....

From :

Collector

District .....

To,

Shri .....  
Member of the House of People (Lok Sabha)

.....  
.....

Sir,

Your constituency has the following Market Committees in District ..... namely:—

- |                            |                            |
|----------------------------|----------------------------|
| (1) Market Committee ..... | (2) Market Committee ..... |
| (3) Market Committee ..... | (4) Market Committee ..... |

As per the provision of clause (d) of sub-section (1) of Section 11 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973), you are ex-officio member of all the market committees of your constituency.

2. In case you desire to nominate any person as your representative to attend the meetings of any market committee in the event of your absence, then please send his nomination in the attached Form 4. You are also requested to use a separate Form (Form 4) for each market committee.

3. For your convenience, the relevant rule relating to qualification prescribed for the representative to be nominated is appended herewith.

Enclosure-As above

Yours faithfully,

(.....)  
Collector .....

Seal

ATTACHMENT OF FORM-3

EXTRACT

**EXTRACT OF RULE 5 OF THE MADHYA PRADESH KRISHI UPJ MANDI (LOK SABHA TATHA VIDHAN SABHA SADASYA KI SADASYATA TATHA PRATINIDHI KA NAMNIRDESHAN) NIYAM, 2010**

**“5. Qualifications for the representative:**

(1) A person shall be qualified to be nominated as a representative under rule 3 or rule 4, if—

- (a) his name is included in the voter list of the market committee concerned;
- (b) he is qualified to be elected as Chairman or a member of the market committee;
- (c) he has no direct or indirect pecuniary interest in any agreement, contract or employment with by or on behalf of the market committee; and

(d) he is not a defaulter of any dues of the market committee.

(2) Any objection relating to the qualification of a representative shall be referred to the Collector and if upon enquiry thereon, the Collector finds that such person was not, entitled for nomination, the nomination of such person shall be deemed to have ceased automatically.”.

#### FORM-4

(See rule 3 and rule 4)

Letter No. ....

Date .....

Place .....

From :

Shri .....  
Member of the House of People (Lok Sabha)  
Member of State Legislative Assembly (Vidhan Sabha),  
.....

To,

Collector  
.....

Subject:—Nomination of representative for attending the meetings of the market committee.

Sir,

I, hereby, nominate the following person of which attested photo is attached as my representative to attend the meetings of the market committee ..... of my constituency, of which I have opted to be a member under clause (d) of sub-section (1) of Section 11 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No. 24 of 1973):

Shri ..... Son of Shri ..... Age ..... years,  
Resident of ..... postal address .....  
.....

2. To the best of my knowledge and belief, the aforesaid person is qualified for nomination under rule 5 of the Madhya Pradesh Krishi Upaj Mandi (Lok Sabha Tatha Vidhan Sabha Sadasya Ki Mandi Samiti Mein Sadasyata Tatha Pratinidhi Ka Namnirdeshan) Niyam, 2010.

Yours faithfully,

Signature .....

Name .....

Member of House of the People

(Lok Sabha)/State Legislative Assembly

Name of the Constituency .....

Passport Size  
photograph of  
nominated  
representative  
attested by  
member

## अन्तिम नियम

### आवास एवं पर्यावरण विभाग

मंत्रालय, वल्लभ भवन, भोपाल

शुद्धि-पत्र

भोपाल, दिनांक 2 जनवरी 2012

क्र. एफ-7-18-2009-बत्तीस.—इस विभाग की समसंख्यक अधिसूचना दिनांक 1 अक्टूबर, 2010 द्वारा भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए मध्यप्रदेश नगर एवं ग्रामीण नियोजन राजपत्रित (प्रथम तथा द्वितीय श्रेणी) सेवा भरती नियम, 1977 की अनुसूची-चार में संशोधन किया जाता है।

2. राज्य शासन द्वारा जारी उक्त अधिसूचना दिनांक 1 अक्टूबर, 2010 में कतिपय त्रुटियाँ सामने आने पर एतद्वारा शुद्धिपत्र जारी किया जाता है:—

#### अनुसूची “चार”

नियम-14 देखिए

1. तृतीय श्रेणी अराजपत्रित के सरल क्र. 1, 2 एवं 3 के कॉलम-6 में “विहीत शैक्षणिक अर्हता विलोपित की जाती है” (हिन्दी एवं अंग्रेजी में).
2. सरल क्रमांक-3 के कॉलम-5 में रिसर्च सहायक के स्थान पर वरिष्ठ रिसर्च सहायक पढ़ा जावे (केवल प्रकाशित हिन्दी के भाग में).

### CORRIGENDUM

No. F-7-18-2009-XXXII.—In exercise of the powers conferred by the proviso to Article 309 of the constitution of India the following further amendments are made in schedule-IV of the Madhya Pradesh Town & Country Planning Gazetted (Class I & Class II) Service Recruitment Rules 1977, previously issued *vide* this Departments even numbered notification dated 1st October 2010 namely:—

The State Government is hereby issue this corrigendum due to some mistakes occurred in its previous notification dated 1st October 2010.

#### SCHEDULE-IV

*See Rule-14*

1. Class-III Non-Gazetted category, in column 6 of Sr. No. 1, 2 and 3, requisite qualification as mentioned is hereby deleted (in Hindi & English version both).
2. Read column 5 of Sr. No. 3 as “रिसर्च सहायक के स्थान पर वरिष्ठ रिसर्च सहायक” (in Hindi version only).

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,

आशीष सक्सेना, उपसचिव.